

**TITLE 17. TRANSPORTATION**  
**CHAPTER 5. DEPARTMENT OF TRANSPORTATION**  
**COMMERCIAL PROGRAMS**

*Editor's Note: 17 A.A.C. 5 was created from Sections recodified from 17 A.A.C. 4 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).*

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**ARTICLE 1. GENERAL PROVISIONS**

**ARTICLE 2. MOTOR CARRIERS**

**R17-5-201. Definitions**

- A. The following definitions apply to this Article unless context indicates otherwise:
  1. "Audit" means any inspection of a transporter's motor vehicle, equipment, books, or records to determine compliance with this Article and A.R.S. Title 28, Chapter 14.
  2. "Co-applicant" means an employer or potential employer.
  3. "Commercial driver license" or "CDL" has the meaning prescribed in A.R.S. § 28-3001(2).
  4. "Danger to public safety" means any condition of a transporter likely to result in serious peril to the public if not discontinued immediately.
  5. "Division" or "MVD" means the Motor Vehicle Division, Arizona Department of Transportation.
  6. "Division Director" means the Assistant Director of the Arizona Department of Transportation for the Motor Vehicle Division or the Assistant Director's designated agent.
  7. "Hearing Office" means the Arizona Department of Transportation, Motor Vehicle Division, Executive Hearing Office.
  8. "Transporter" means any person, driver, motor carrier, shipper, manufacturer, or motor vehicle, including any motor vehicle transporting a hazardous material, hazard-

ous substance, or hazardous waste, subject to this Article and A.R.S. Title 28, Chapter 14.

9. "Violation" means any conduct, act, or failure to act required or prohibited under this Article and A.R.S. Title 28, Chapter 14.

- B. Any definition prescribed under A.R.S. § 28-5201 also applies to this Article.

#### Historical Note

New Section made by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3).

#### **R17-5-202. Motor Carrier Safety: Incorporation of Federal Regulations; Application**

- A. The Division incorporates by reference 49 CFR 40, 382, 390, 391, 392, 393, 395, 396, 397, and 399, published October 1, 2003, and no later amendments or editions, as amended by R17-5-202 through R17-5-208. The incorporated material is available from the U.S. Government Printing Office, Superintendent of Documents, Mail Stop: SSOP, Washington, D.C. 20402-0001, and is on file with the Division.
- B. The regulations of 49 CFR, incorporated by subsection (A), apply as amended by R17-5-203 through R17-5-208 to:
  1. A motor carrier as defined in A.R.S. § 28-5201 except a motor carrier transporting passengers for hire in a motor vehicle with a design capacity of six or fewer persons.
  2. A vehicle owned or operated by the state, a political subdivision, or a public authority of the state that is used to transport hazardous materials in an amount requiring the vehicle to be marked or placarded as prescribed in R17-5-209.

#### Historical Note

New Section recodified from R17-4-435 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2). Amended by final rulemaking at 10 A.A.R. 2679, effective June 8, 2004 (Supp. 04-2).

#### **R17-5-203. Motor Carrier Safety: 49 CFR 390 - Federal Motor Carrier Safety Regulations; General Applicability and Definitions; General Requirements and Information**

- A. 49 CFR 390.3 General applicability is amended as follows:
  1. Paragraph (a) is amended to read:  
Regulations incorporated in this Section are applicable to all motor carriers operating in Arizona and any vehicle owned or operated by the state, a political subdivision, or a state public authority that is used to transport a hazardous material in an amount requiring the vehicle to be marked or placarded as prescribed in R17-5-209.
  2. Paragraph (b) is amended to read:  
A motor carrier driver domiciled in Arizona who operates a commercial motor vehicle defined in A.R.S. § 28-3001 shall comply with the requirements of A.R.S. Title 28, Chapter 8 and any rule made under that Chapter.
  3. Paragraph (c) is amended to read:  
A motor carrier operating in Arizona in furtherance of a commercial enterprise, shall comply with the financial responsibility requirement specified in A.R.S. Title 28, Chapter 9, Article 2, and 49 CFR 387.
  4. Paragraph (f)(6) is deleted.
- B. 49 CFR 390.5 Definitions. The definitions listed in 49 CFR 390.5 are amended as follows:
  1. If the term "Commercial Motor Vehicle" or "CMV" is used in reference to the controlled substances and alcohol

use and testing requirement of 49 CFR 382, the term has the meaning prescribed in 49 CFR 382.107.

2. If the term "Commercial Motor Vehicle" or "CMV" is used in reference to the licensing requirements prescribed under A.R.S. § 28-3223, the term has the meaning prescribed under A.R.S. § 28-3001.
3. If the term "Commercial Motor Vehicle" or "CMV" is not used in reference to the controlled substances and alcohol use and testing requirement of 49 CFR 382 or the licensing requirement prescribed under A.R.S. § 28-3223, the term means a self-propelled, motor-driven vehicle or vehicle combination, used on a public highway in this state in furtherance of a commercial enterprise that:
  - a. Has a gross vehicle weight rating (GVWR) as a single vehicle or a gross combination weight rating (GCWR) of 18,001 pounds or more for purposes of intrastate commerce;
  - b. Transports passengers for hire and has a design capacity of seven or more persons; or
  - c. Transports a hazardous material in an amount requiring marking or placarding as prescribed in R17-5-209;
  - d. Is not an intrastate-operating tow truck that has a GVWR up to 26,000 pounds, but a tow truck operator remains subject to all other provisions prescribed under 49 CFR 391.41, 391.43, 391.45, 391.47, and 391.49; and
  - e. Operates for purposes of interstate commerce with a GVWR of greater than 10,001 pounds.
4. "Exempt intracity zone" is deleted and has no application in R17-5-203 through R17-5-206.
5. "For-hire motor carrier," "private motor carrier," "private motor carrier of passengers (business)," and "private motor carrier of passengers (nonbusiness)" are deleted from R17-5-203 through R17-5-206 and the term "motor carrier" is substituted.
6. "Gross vehicle weight rating (GVWR)" is amended by adding:  
In the absence of a value specified by the manufacturer and the vehicle identification number, law enforcement shall use a vehicle's actual gross weight or declared gross weight to determine the GVWR.
7. "Regional Director of Motor Carriers" means the Division Director of the Arizona Department of Transportation, Motor Vehicle Division.
8. "Special agent" means an officer or agent of the Department of Public Safety, the Division, or a political subdivision, who is trained and certified by the Department of Public Safety to enforce Arizona's Motor Carrier Safety requirements.
9. "State" means a state of the United States or the District of Columbia.
10. "Tow truck," as used in the definition of emergency in 49 CFR 390.5, has the meaning prescribed under A.A.C. R13-3-101.
- C. 49 CFR 390.15 Assistance in investigations and special studies. Paragraph (a) is amended to read:  
A motor carrier shall make all records and information pertaining to an accident available to a special agent upon request or as part of any inquiry within the time the request or inquiry specifies. A motor carrier shall give a special agent all reasonable assistance in the investigation of any accident including providing a full, true, and correct answer to any question of the inquiry.
- D. 49 CFR 390.21 Marking of CMVs. Paragraph (a) is amended to read:

This Section applies to all motor carrier vehicles operated in Arizona. A motor carrier not subject to U.S. Department of Transportation marking requirements shall mark its vehicle with the:

1. Company name, or
2. Business trade name, and
3. City and state.

**E. 49 CFR 390.23 Relief from regulations.**

1. Paragraph (a) is amended to read:  
Regulations contained in 49 CFR 390 through 397 do not apply to a motor carrier that:
  - a. Is exempt from federal jurisdiction, and
  - b. Operates a commercial motor vehicle used or designated to provide relief during an emergency.
2. Paragraphs (a)(1), (a)(1)(i), (a)(1)(i)(A), (a)(1)(i)(B), and (a)(1)(ii) are deleted.
3. Paragraph (a)(2)(i)(A) is amended as follows:  
An emergency has been declared by a federal, state, or local government official having authority to declare an emergency; and
4. Paragraph (a)(2)(i)(B) is amended as follows:  
The Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau determines a local emergency exists that justifies an exemption from any or all of these Parts. If the Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau determines relief from these regulations is necessary to provide vital service to the public, relief shall be granted with any restrictions the Arizona Department of Public Safety considers necessary.
5. "Interstate commerce" as used in paragraph (b) means engagement in a commercial enterprise.

**F. 49 CFR 390.25 Extension of relief from regulations - emergencies is amended as follows:**

A motor carrier seeking to extend a period of relief from these regulations shall obtain approval from the Arizona Department of Public Safety Commercial Vehicle Enforcement Bureau. The motor carrier shall give full details of the additional relief requested. The Arizona Department of Public Safety shall observe time limits for emergency relief from regulations as prescribed under 49 CFR 390.23(a), but may extend a period of relief after considering:

1. Severity of the emergency,
2. Nature of relief services to be provided by the motor carrier, and
3. Other restrictions that may be necessary.

**G. 49 CFR 390.27 Locations of motor carrier safety service centers is amended to read:**

A motor carrier requesting relief from these regulations shall contact the Arizona Department of Public Safety, Commercial Vehicle Enforcement Bureau, Telephone (602) 223-2522.

**Historical Note**

New Section recodified from R17-4-435.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2).

**R17-5-204. Motor Carrier Safety: 49 CFR 391 - Qualifications of Drivers**

**A. 49 CFR 391.11 Qualifications of drivers. Paragraph (b)(1) is amended to read:**

Is at least 21 years of age for interstate operation and at least 18 years of age for operations restricted to intrastate transpor-

tation not involving the transportation of a reportable quantity of hazardous substance, hazardous waste required to be manifested, or hazardous material in an amount requiring a vehicle to be marked or placarded as prescribed in R17-5-209.

**B. 49 CFR 391.49 Alternative physical qualification standards for the loss or impairment of limbs.**

1. Paragraph (a) is amended by adding:

A person not physically qualified to drive as prescribed in 49 CFR 391.41(b)(1), (b)(2), (b)(3), or (b)(10) but otherwise qualified to drive a motor vehicle, may drive a motor vehicle in intrastate commerce if the Division Director grants an intrastate waiver to the person. Application for an intrastate waiver shall be submitted according to subsection (C). If granted, an intrastate waiver shall be for a period not exceeding two years. A person granted an intrastate waiver may transfer the intrastate waiver from an original employer to a new employer upon written notification to the Division Director stating the new employer's name and the type of equipment to be driven.

2. Paragraph (b) is amended by adding:

To obtain an intrastate waiver, an applicant or an applicant and co-applicant shall submit a letter of application for an intrastate waiver of a physical qualification to the Motor Vehicle Division, Medical Review Program, P.O. Box 2100, Mail Drop 818Z, Phoenix, Arizona 85001-2100. The applicant shall comply with all the requirements of 49 CFR 391.49(c), "Alternative physical qualification standards for the loss or impairment of limbs," except paragraphs (c)(1)(i) and (c)(1)(iii). The driver applicant shall respond to the requirements of 49 CFR 391.49(c)(2)(ii) through (c)(2)(v), if the information is known.

3. Paragraph (c)(1)(iv) is amended to read:

A description of the driver applicant's limb or visual impairment for which waiver is requested.

4. Paragraph (d)(3)(i) is amended to read:

The medical evaluation summary for a driver applicant disqualified under 49 CFR 391.41(b)(1) or (b)(10) shall include:

5. Paragraph (d)(3)(i)(B) is amended by adding:

Or a statement by the examiner that an applicant for an intrastate waiver has:

- a. Distant visual acuity at least 20/40 (Snellen), with or without a corrective lens, in one eye;
- b. Field of vision at least 70° peripheral measurement of the horizontal meridian of the applicant's dominant eye;
- c. Ability to distinguish the colors of a traffic signal or device showing standard red, green, and amber.

6. Paragraph (d)(3)(iii) is added:

A medical evaluation for a driver applicant disqualified as prescribed under 49 CFR 391.41(b)(3) shall include the requirements in 49 CFR 391.64.

7. Paragraph (j)(1) is amended by adding:

A person with a distant visual acuity of greater than 20/40 (Snellen), with or without a corrective lens, in one eye; a field of vision of less than 70° peripheral measurement of the horizontal meridian of the person's dominant eye; and the inability to distinguish the colors of a traffic signal or device showing standard red, green and amber, shall not:

- a. Transport any amount of hazardous material required to be marked or placarded as prescribed under R17-5-209, or
- b. Operate a vehicle for the purpose of transporting passengers as prescribed under R17-5-202.

**C. Waiver procedure for an intrastate driver.**

1. The Division Director shall appoint the Division's Medical Review Officer to review a request for physical waiver.
  2. The Medical Review Officer shall:
    - a. Review an application for waiver to ensure all provisions of 49 CFR 391.49 are met;
    - b. Take necessary testimony and accept documentation and information about the application;
    - c. Ensure that a driver applying for an intrastate waiver of the visual requirements:
      - i. Has driven the type of vehicle to be operated as prescribed in the waiver for at least two of the previous five years; and
      - ii. Will not transport passengers for hire, or
      - iii. Will not transport a reportable quantity of a hazardous substance, hazardous waste that requires a manifest, or hazardous material that requires marking or placarding as prescribed under R17-5-209;
    - d. Notify the applicant by mail:
      - i. To contact the nearest CDL examiner to schedule a time to take the CDL pre-inspection, off-road, and on-road tests within 30 days from date of notice; and
      - ii. Of the approval or denial of the waiver within 10 days of the decision to approve or deny.
  3. The applicant shall submit an application to the Division as prescribed under 49 CFR 391.49(a), (b), (c), and (d) as amended by this Section.
  4. Waiver form.
    - a. The Division shall ensure that the application for waiver form reflects the terms, conditions, or limitations of the waiver.
    - b. The Division shall maintain the original waiver form.
    - c. The motor carrier shall retain a legible copy of the waiver form:
      - i. During the driver's employment as a driver, and
      - ii. For a minimum of three years after the driver ceases driving for the motor carrier.
    - d. A driver granted a waiver shall possess a legible copy of the waiver when driving a commercial motor vehicle.
  5. Hearings and appeals. If the Medical Review Officer denies a waiver application, the applicant may request a hearing with the MVD Executive Hearing Office within 15 days from the date of the notice as prescribed under 17 A.A.C. 1, Article 5.
  6. Using the U.S. Department of Transportation Federal Highway Administration's Regulatory Criteria for Evaluation under Section 391.41, April 1996, the Medical Review Officer may suspend for life the commercial vehicle operating privilege of any driver who, after issuance of a waiver as prescribed in this Section:
    - a. Fails to meet the conditions imposed by this Section,
    - b. Commits a serious traffic violation described under A.R.S. § 28-3312(E), or
    - c. Is involved in a reportable accident related to the driver's medical condition.
  7. If enforcement of any provision of this Section would result in the loss or disqualification of federal funding for any state agency or program, that provision is invalid.
- D. Subpart F - Files and Records**  
 49 CFR 391.51 General requirements for driver qualification files. Paragraph (b)(8) is amended by adding:

"or the Division Director's letter of notification, granting an intrastate waiver of physical disqualification, if a waiver is granted as prescribed in this Section."

**E. The following sections are deleted:**

1. 49 CFR 391.68 Private motor carrier of passengers (non-business).
2. 49 CFR 391.69 Private motor carrier of passengers (business).

**Historical Note**

New Section recodified from R17-4-435.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-205. Motor Carrier Safety: 49 CFR 382 - Controlled Substances and Alcohol Use and Testing**

**A. 49 CFR 382.103 Applicability.** Paragraph (a)(1) is amended to read:

The commercial driver license requirements of the state of Arizona.

**B. 49 CFR 382.115 Starting date for testing programs.** Paragraph (a) is amended to read:

The controlled substances and alcohol use and testing requirements commence for all motor carriers on the date this Section goes into effect.

**C. Paragraph (b) is deleted.**

**Historical Note**

New Section recodified from R17-4-435.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3).

**R17-5-206. Motor Carrier Safety: Amendment to 49 CFR 392**

**A. 49 CFR 392.5 Alcohol prohibition.** Paragraph (e) is amended to read:

Drivers who violate the terms of an out-of-service order as prescribed in this Section are subject to the provisions and sanctions of A.R.S. § 28-5232.

**B. 49 CFR 392.9a is deleted.**

**Historical Note**

New Section recodified from R17-4-435.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2).

**R17-5-207. Civil penalties**

To determine the amount of civil penalty for repeat findings of responsibility for the same class of violations involving vehicles required to be placarded, the higher level of civil penalty as prescribed in A.R.S. § 28-5238 applies.

**Historical Note**

New Section recodified from R17-4-435.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-208. Insulin-dependent Commercial Driver License Waiver Pilot Study Program**

The Division shall create a pilot study program for insulin-dependent diabetics to process, monitor, and evaluate the feasibility of establishing a waiver program for intrastate drivers who are disqualified as prescribed in the provisions of 49 CFR 391.41(b)(3), but who are otherwise qualified. All requirements of R17-5-204 apply except subsections (B)(3) and (B)(4).

1. The Medical Review Officer, authorized to approve or deny waiver applications, shall administer the pilot study program.

2. The study program begins on the effective date of this rule and terminates two years from that date.
3. All waivers issued through the study program terminate upon the expiration of the study program.
4. The Division Director may extend the study or establish a permanent waiver process after review of the study program results.
5. An insulin-dependent diabetic may apply for a waiver, restricted to the state of Arizona, for participating in the two-year pilot study if:
  - a. The applicant submits blood glucose logs to an endocrinologist or medical examiner at an annual examination or at any time as directed by the medical review section.
  - b. The applicant has a driving record meeting the minimum requirements of safe driving as specified in applicable federal and state safety regulations and has no serious traffic violation as described under A.R.S. § 28-3312(E), no period of driver disqualification, and no reportable accident for the three-year period before submitting the waiver application.
  - c. A separate signed statement from an examining ophthalmologist is submitted that the applicant has been examined and does not have unstable proliferative diabetic retinopathy, unstable advancing disease of blood vessels in the retina, and has stable acuity of at least 20/40 Snellen in each eye, with or without corrective lenses.
6. An insulin-dependent diabetic commercial driver license applicant shall provide:
  - a. A board-certified or board-eligible endocrinologist with a complete medical history including the date insulin use began, all hospitalization reports, consultation notes for diagnostic examinations, special studies pertaining to the diabetes and follow-up reports, and reports of any hypoglycemic insulin reactions within the prior 12 months from the date the applicant started using insulin.
  - b. An examination by a board-certified or board-eligible endocrinologist. The complete medical examination shall consist of a comprehensive evaluation of the applicant's medical history and current status, including a review of:
    - i. Fasting blood studies glucose, glycosylated hemoglobin/Hb Alc I including lab reference page and urinalysis performed during the last six months; and
    - ii. Insulin dosages and types, diet utilized for control, and any significant factors such as smoking, alcohol use, and other medications or drugs taken.
  - c. A statement prepared and signed by the examining endocrinologist whose status as board-certified or board-eligible is indicated. The signed statement shall include separate declarations indicating the following medical determinations:
    - i. The endocrinologist is familiar with the applicant's medical history for the past 12 months whether through actual treatment over that time or through consultation with a physician who has treated the applicant during that time.
    - ii. The applicant is free from insulin reactions including severe hypoglycemia and hypoglycemia awareness, and has had no more than one documented hypoglycemic reaction per month in the previous 12 months from the date the applicant started using insulin injections.
- iii. The applicant does not have severe hypoglycemia episodes of altered consciousness requiring the assistance of another person to regain control.
- iv. The applicant does not have hypoglycemia unawareness or the inability to recognize the early symptoms of hypoglycemia such as sweating, anxiety, forceful heartbeat, and light-headedness.
- v. The applicant's diabetic condition will not adversely affect the applicant's ability to operate a commercial motor vehicle; and
- vi. The applicant is educated in diabetes and its management and is thoroughly informed of and understands procedures to follow to monitor and manage the applicant's diabetes and procedures to follow if complications arise.
- d. An insulin-dependent applicant for a commercial driver license waiver shall meet the following requirements for the last three years before application:
  - i. Have a driving record that contains no suspension or revocation of the applicant's driver license for the operation of any motor vehicle, including personal vehicles, except a suspension or revocation due to nonpayment of fines;
  - ii. Have no involvement in an accident as defined in 49 CFR 390.5 for which the applicant received a citation for a moving traffic violation while operating a commercial motor vehicle;
  - iii. Have no conviction for a disqualifying offense described in 49 CFR 383.51, or more than one serious traffic violation as described in 49 CFR 383.51 and A.R.S. § 28-3312(E) while operating a commercial motor vehicle; and
  - iv. Have no more than two convictions for any non-serious moving traffic violations while operating a commercial motor vehicle.
- e. The applicant shall immediately report any arrest, citation, or conviction to the MVD Medical Review Program. Failure to do so may result in denial or rescission of the waiver.

#### Historical Note

New Section recodified from R17-4-435.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3).

#### R17-5-209. Hazardous Materials Transportation

- A. Incorporation of federal regulations.
  1. The Motor Vehicle Division incorporates the following portions of the Federal Hazardous Materials Regulations by reference. Materials incorporated by reference are on file in the Secretary of State's Office. The incorporated Hazardous Materials Regulations are published in 49 CFR, Transportation, Subtitle B - Other Regulations Relating to Transportation, Chapter I - Research and Special Programs Administration, Department of Transportation:
    - a. Subchapter A - Hazardous Materials and Oil Transportation; Part 107 - Hazardous materials program procedures; and

- b. Subchapter C - Hazardous Materials Regulations; Parts:
  - i. 171 - General information, regulations, and definitions;
  - ii. 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements;
  - iii. 173 - Shippers - general requirements for shipments and packagings;
  - iv. 177 - Carriage by public highway;
  - v. 178 - Specifications for packagings; and
  - vi. 180 - Continuing qualification and maintenance of packagings.
- 2. These parts are incorporated as printed in the October 1, 2002 edition, and those sections of the October 1, 1991 edition authorized for use under the transitional provisions of Section 171.14 of the October 1, 2002 edition.
- B. Application and exceptions.**
  - 1. Application.
    - a. Regulations incorporated in subsection (A) apply as amended by subsection (C) to motor carriers, shippers, and manufacturers as defined in A.R.S. § 28-5201.
    - b. Regulations incorporated in subsection (A) also apply to any vehicle owned or operated by the state, a political subdivision, or a state public authority, used to transport a hazardous material, including hazardous substances and hazardous waste.
  - 2. Exceptions. An authorized emergency vehicle, as defined in A.R.S. § 28-101, is excepted from the provisions of this Section.
- C. Amendments.** The following sections of the Federal Hazardous Materials Regulations, incorporated under subsection (A), are amended as follows:
  - 1. Part 171. General information, regulations, and definitions.
    - a. Section 171.1 Purpose and scope. Paragraph (a) is amended to read:
 

“The transportation of hazardous materials by and their offering to: (1) interstate, intrastate, and foreign motor carriers; and (2) vehicles owned or operated by the state, a political subdivision or a state public authority, which are used to transport hazardous material.”
    - b. Section 171.8 Definitions and abbreviations. Section 171.8 is amended by revising the definitions for “Carrier,” “Hazmat employer,” and “Person,” and adding a definition for “Highway” as follows:
 

“‘Carrier’ means a person engaged in the transportation of passengers or property by highway as a common, contract, or private carrier and also includes the state, a political subdivision, and a state public authority engaged in the transportation of hazardous material.”

“‘Hazmat employer’ means a person who uses one or more of its employees in connection with: transporting hazardous material; causing hazardous material to be transported or shipped; or representing, marking, certifying, selling, offering, reconditioning, testing, repairing, or modifying containers, drums, or packagings as qualified for use in the transportation of hazardous material. This term includes motor carriers, shippers, and manufacturers defined in A.R.S. § 28-5201 and includes the state, political subdivisions, and state public authorities.”

“‘Highway’ means a public highway defined in A.R.S. § 28-5201.”

“‘Person’ has the same meaning as in A.R.S. § 28-5201.”

- 2. Part 172 - Hazardous materials table, special provisions, hazardous materials communications, emergency response information, and training requirements. Section 172.3 Applicability. Paragraph (a)(2) is amended to read:
 

“Each motor carrier that transports hazardous materials, and each state agency, political subdivision, and state public authority that transports hazardous material by highway.”
- 3. Part 177. Carriage by public highway.
  - a. Section 177.800 Purpose and scope of this part and responsibility for compliance and training. In paragraph (a), the phrase “by private, common, or contract carriers by motor vehicle” is amended to read, “by a motor carrier operating in Arizona, a state agency, a political subdivision, or a state public authority that transports hazardous material by highway.”
  - b. Section 177.802 Inspection. Section 177.802 is amended to read: “Records, equipment, packagings, and containers under the control of a motor carrier or other persons subject to this part, affecting safety in transportation of hazardous material by motor vehicle, must be made available for examination and inspection by an authorized representative of the Department as prescribed in A.R.S. §§ 28-5204 and 28-5231.”

#### Historical Note

New Section recodified from R17-4-436 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3). Amended by final rulemaking at 9 A.A.R. 1867, effective June 3, 2003 (Supp. 03-2).

#### R17-5-210. Repealed

#### Historical Note

New Section recodified from R17-4-438 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3). Section repealed by final rulemaking at 8 A.A.R. 3249, effective July 10, 2002 (Supp. 02-3).

#### R17-5-211. Motor Carrier Safety: Inspection, Enforcement, Sanction

- A. Scope.** This Section applies to any transporter subject to:
  - 1. R17-5-202 through R17-5-209; and
  - 2. A.R.S. Title 28, Chapter 14.
- B. Audits.**
  - 1. The Division may conduct an audit for cause or without cause.
  - 2. The Division may enter the premises of any transporter for the purpose of conducting an audit.
  - 3. The Division may inspect a motor vehicle:
    - a. Within Arizona at:
      - i. A transporter’s place of business; or
      - ii. Any other in-state location; or
    - b. Outside Arizona at a transporter’s place of business.
  - 4. A transporter shall make records available for audit:
    - a. During the transporter’s normal business hours; and
    - b. In a specific location as follows:
      - i. The transporter’s Arizona place of business; or

- ii. Either an Arizona location designated by the Division Director or the transporter's out-of-state place of business.
  - 5. The Division shall charge a transporter in advance for all expenses to be incurred in performance of an out-of-state audit.
  - C. Violation notification. Within five days after audit completion, the Division shall notify an audited transporter in writing of all violations. The notification shall specify a deadline date for remedy of all violations.
  - D. Obligation to remedy violations: After receipt of a violation notification, a transporter shall remedy all violations by the specified date to comply with:
    - 1. R17-5-202 through R17-5-209; and
    - 2. A.R.S. Title 28, Chapter 14
  - E. Noncompliance: Failure to remedy violations. If the Division determines a transporter did not remedy a violation by the date specified in a violation notice, the Division shall initiate further enforcement action as prescribed under A.R.S. §§ 28-5237 and 28-5238.
  - F. Danger to public safety. If the Division Director determines a written violation report establishes probable cause of danger to public safety, the Division Director shall issue an order by 5:00 p.m. the next business day suspending the Arizona registration of the motor vehicle owned or leased by the transporter, or a driver's Arizona driver license or nonresident driving privilege.
- Historical Note**
- New Section recodified from R17-4-439 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 7 A.A.R. 4259, effective September 13, 2001 (Supp. 01-3).
- R17-5-212. Motor Carrier Safety: Hearing Procedure**
- A. Scope.
    - 1. This Section applies only to a motor carrier enforcement action under:
      - a. R17-5-202 through R17-5-207;
      - b. R17-5-209; and
      - c. A.R.S. Title 28, Chapter 14.
    - 2. In an enforcement hearing involving a manufacturer, motor carrier, shipper, or driver under this Section, the Department shall follow the procedures prescribed under 17 A.A.C. 1, Article 5, except as specified in subsections (B) through (I).
  - B. Initiation of proceedings, pleadings.
    - 1. The Division Director shall initiate a hearing under this Section by:
      - a. Signing and serving a complaint in the form prescribed under subsection (G) that cites a manufacturer, motor carrier, shipper, or driver for an alleged infraction; and
      - b. Serving the cited manufacturer, motor carrier, shipper, or driver with a hearing notice within 15 days after the date the complaint is signed.
    - 2. After the Division Director signs a complaint, the Executive Hearing Office as defined in R17-1-501 shall act on the Division Director's behalf through completion of an administrative proceeding under this Section.
  - C. Order to show cause.
    - 1. When a complaint is served, the Executive Hearing Office shall immediately issue a summons for a respondent to appear at an administrative hearing to explain why the Division should not grant the requested relief.
  - 2. The Executive Hearing Office shall hold a hearing under this Section within 60 days after the date the complaint is served.
  - 3. The parties may resolve a complaint before the hearing date.
    - a. The respondent shall file any settlement condition with the Executive Hearing Office.
    - b. Complaint settlement terminates the right of both petitioner and respondent to receive additional administrative review.
  - D. Service.
    - 1. The Executive Hearing Office shall:
      - a. Send an order to show cause by certified mail as prescribed under A.R.S. § 28-5232(B); and
      - b. Maintain a proof-of-service file.
    - 2. The date of service is the date of mailing.
  - E. Answer.
    - 1. Within 15 days after service of a complaint, a respondent shall respond to the complaint by:
      - a. Filing a written answer with the Executive Hearing Office; and
      - b. Serving the Assistant Attorney General, Transportation Division, representing the Motor Vehicle Division with a copy of the answer.
    - 2. A respondent's written answer shall contain:
      - a. An admission or denial of each complaint allegation, and
      - b. A list of all defenses that the respondent intends to raise during the hearing.
    - 3. In a hearing, the Executive Hearing Office shall consider any allegation not denied in the answer as an admission to the allegation.
  - F. Default.
    - 1. The Executive Hearing Office shall find a respondent that fails to file an answer within 15 days after a complaint's service date in default.
    - 2. If the Executive Hearing Office finds a respondent in default, the Executive Hearing Office shall:
      - a. Consider the respondent's default as an admission of all complaint allegations unless the default is cured under subsection (F)(3); and
      - b. Enter an order granting the relief requested in the Division's complaint.
    - 3. A respondent may cure a default by following Rule 60(c) of the Arizona Rules of Civil Procedure.
  - G. Emergency motor carrier hearings; scope.
    - 1. The Division Director shall initiate an emergency motor carrier hearing process according to R17-5-211(F) by:
      - a. Issuing a complaint and order to show cause according to the hearing scope under A.R.S. § 28-5232(C); and
      - b. Ordering immediate suspension of the registration of the vehicle owned or leased by a motor carrier or the driver license or driver's non-resident operating privilege as prescribed under A.R.S. § 28-5232(A).
    - 2. The Executive Hearing Office shall set an emergency hearing date to occur within 30 days after the date of the complaint.
    - 3. The complaint and order to show cause shall contain the following:
      - a. The Division designated as the petitioner on the state's behalf;
      - b. The respondent's name and the basis of fact for the complaint, including a listing of any alleged violation of Department statute or rule;
      - c. The relief sought by the Division; and

- d. An original copy of the written violation notice issued by a law enforcement agency that was served upon the respondent.
- 4. At an emergency motor carrier hearing, an Executive Hearing Office administrative law judge shall determine whether the respondent:
  - a. Was operating on a public highway and the operation created a danger to the public safety;
  - b. Was responsible for the danger; and
  - c. Is responsible for preventing or remedying further danger to public safety.
- 5. Upon a finding that the factors in subsection (G)(4) are present, the administrative law judge shall order that the motor carrier's registration and operator's driver license or driver's non-resident operating privilege suspension continue.
- 6. If a respondent fails to appear at an emergency motor carrier hearing, any suspension previously ordered remains in effect until the respondent appears and meets all requirements under A.R.S. § 28-5232(F).
- H. Upon a finding that the factors in subsection (G)(4) are present, the Division Director shall impose a civil penalty as prescribed under A.R.S. §§ 28-5232(F), 28-5237(E), and 28-5238.
- I. A respondent may request judicial review of a motor carrier safety hearing proceeding as prescribed under A.R.S. § 28-5239.

#### Historical Note

New Section recodified from R17-4-440 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4230, effective November 15, 2002 (Supp. 02-3).

### ARTICLE 3. PROFESSIONAL DRIVER TRAINING SCHOOLS

#### R17-5-301. Reserved

#### R17-5-302. Commercial driving schools and instruction licensing

- A. Definitions. The following words and phrases have been defined as follows:
  - 1. "Commission": The Arizona Highway Commission.
  - 2. "Instructor": Any person, whether acting for himself as operator of a professional driver training school or for any such school for compensation, who teaches, conducts classes of, gives demonstrations to, or supervises practice of persons learning to operate or drive motor vehicles or preparing to take an examination for an operator or chauffeur's license or learner's permit; and any person who supervises the work of any other such instructor.
  - 3. "Professional driver training school or school": A business enterprise conducted by an individual, association, partnership, or corporation, for the education and training of persons, either practically or theoretically, or both, to operate or drive motor vehicles, to prepare an applicant for an examination given by the state for an operator's or chauffeur's license or learner's permit and charging a consideration or tuition for such services.
  - 4. "Superintendent": The superintendent of the Motor Vehicle Division.
  - 5. "Suspension": The licensee's privilege to operate a professional driving school or to instruct (as provided in these rules) is temporarily withdrawn.
  - 6. "Revocation": The licensee's privilege to operate a professional driving school or to instruct (as provided in these rules) is terminated indefinitely.

- 7. "Operator": The owner of a professional driver training school or one who holds himself out as offering, or one who otherwise offers, for a consideration or tuition, any service or services enumerated in A.R.S. § 32-2351, subsection (3).
- 8. "Doing business": Soliciting for the purpose of offering, or performing any or all of the Acts set forth in A.R.S. § 32-2351(2) and (3).
- B. General provisions:
  - 1. Administration and enforcement. The Commission, through the Superintendent of Motor Vehicle Division, shall administer and enforce the provisions of this Chapter.
  - 2. Schools and instruction subject to licensing and rules. Section 1, Title 32, Chapter 23 and these rules shall apply to driving schools of all kinds as defined in these rules and to all persons giving instruction in driving schools or giving instruction in the operation of motor vehicle as defined in "instructor."
  - 3. Use of driver training vehicle. No operator of a driving school shall lease, rent, or by any other arrangement permit the use of a vehicle used in driver training by another person when said vehicle is being operated by a student.
  - 4. Employment of Motor Vehicle Division or Traffic Safety employees. No school will be permitted to engage the service of an employee of the Motor Vehicle Division or Traffic Safety as an instructor, agent or employee.
- C. Licenses:
  - 1. Requirements for an original license to operate a professional driver training school and a license to give driving instructions.
    - a. In general two types of licenses will be issued. A license to operate a driving school and a license for an individual to give driving instruction as an employee of a school.
    - b. A license to operate a driving school shall include the right to give driving instruction only when the licensee is licensed as an instructor or employs a person who is licensed as an instructor in accordance with all the requirements of law.
    - c. A copy of the instructor's license must be displayed in the office of each school he may represent.
    - d. The license issued by the Division to operate a driving school shall be prominently displayed in the place of business of the driving school.
    - e. The instructor's identification card shall be in the possession of the licensee at all times that he instructs or actually accompanies a student. The instructor must surrender this card to the Division upon becoming inactive or when his license is cancelled, suspended or revoked.
    - f. A license certificate shall be issued to each driving school for each instructor employed by such school. This certificate shall be prominently displayed in the place of business along with the license to operate such school.
    - g. In case of loss or mutilation, duplicate license or instructor's identification card may be issued by the Division upon submission of a properly signed and completed application accompanied by the required fee and an affidavit setting forth the circumstances. The affidavit must show the date the license or identification card was lost, mutilated, or destroyed, and the circumstances involving the loss, mutilation, or destruction.



- h. A license to operate a driving school and any instructor's license shall be nontransferable.
  - i. Each license will be effective on the date of issuance and will expire on the last day of the calendar year.
  - j. No license fee will be prorated in the event the license is issued less than 12 calendar months prior to expiration.
2. Application for original professional driving school license.
- a. Before any license is issued an application shall be made in writing to the Division on a form prepared and furnished by the Division, which shall include the following:
    - i. The name of the school together with ownership and controlling officers thereof.
    - ii. The application for a driving school license shall include the official name of the school and the location of its established place of business.
    - iii. The specified course of instruction which will be offered.
    - iv. The place or places where such instruction will be given.
    - v. The qualifications of the instructors and supervisors in each specific field together with their names, addresses and other information which may be required by the superintendent.
    - vi. Samples of any and all contracts to be used by the school.
    - vii. Sample copies of all forms of receipts to be used by the school.
    - viii. Copies of all forms used by the school which will be furnished or delivered to students.
    - ix. Driver training schools proposing to give instructions pertaining to the operation of motorcycles, buses, and trucks other than 1/2- or 3/4-ton pickups must submit their complete curriculum for approval along with their application.
  - b. Every application for a license to operate driver training school must be accompanied by a fee of \$200.00. An applicant doing business in more than one location must secure a license for each branch office. An application for a branch license must be accompanied by a fee of \$50.00.
  - c. All renewal application forms must be submitted to the Division not less than 30 days prior to the time the present school license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to the expiration date.
  - d. Each driving school shall submit to the Division, upon application for a license or a renewal license, a complete list of all personnel in its organization and shall indicate those in the staff who will be instructing. When changes are made in instructor personnel, notification shall be made to the Division within 10 days thereafter.
  - e. An individual, association, partnership, or corporation may qualify for a license to operate a professional driver training school through himself, one of its partners, officer of the corporation or managing employee. The qualifying party shall be a regular and bona fide employee whose principal employment is with the employer for whom he has qualified and must have active and direct supervision and control of all operations necessary to secure full compliance with all the provisions of Arizona Revised Statutes Title 32, Chapter 23 and these rules.
3. Application for driving school instructor's license.
- a. Application for an instructor's license shall be made upon a form supplied by the Division, which form may require the following disclosures and information.
    - i. True full names
    - ii. Residence addresses
    - iii. Fingerprint card
    - iv. Employment histories
    - v. Personal references
    - vi. Such other information which the Division deems pertinent to determine the applicant's good moral character. No instructor's license shall be issued except upon compliance with all the provisions of these rules and the provisions of A.R.S. §§ 32-2351 through 32-2391.
  - b. The application for an instructor's license shall include the official name of the school at which the applicant will be an instructor. The licensed instructor shall notify the Division of his initial employment or of any change of employer within 10 days thereafter.
  - c. Every application for a license as a driving school instructor must be accompanied by a fee of \$10.00.
  - d. All renewal application forms must be submitted to the Division not less than 30 days prior to the time the previous license expires. The Division will not be responsible for the timely issuance of any renewal license when application is not received at least 30 days prior to expiration date.
- D. Requirements of applicants for driver training school license and driver training instructors.** Every applicant for a license to operate a driving school and every applicant for a license to give instructions in driving motor vehicles shall meet the requirements as set forth below:
- a. Each applicant shall pass an examination given by the Division which may consist of an actual demonstration or a written test or both covering:
    - i. Traffic laws
    - ii. Safe driving practices
    - iii. Operation of motor vehicles
    - iv. Knowledge of teaching methods, techniques, and practices
    - v. Driving school statutes and regulations, business ethics, office procedures, elementary recordkeeping.
  - b. Each applicant must be of good moral character, at least 21 years of age and have the minimum of a high school education or the equivalent.
  - c. Each applicant must hold a valid Arizona driver license.
  - d. Each applicant must have a satisfactory driving record.
  - e. All instructors shall be physically and mentally able to safely operate a motor vehicle and to train others in the operation of motor vehicles. To substantiate this, the superintendent may require a properly signed and completed certificate of medical examination conducted by a person qualified and licensed to practice medicine in Arizona.
- E. Insurance and safety requirements:**
- 1. All professional school operators shall maintain bodily injury and property damage liability insurance on motor vehicles while being used in driving instruction, insuring

the liability of the driving school, the driving instructor, and any person taking instruction in at least the following amounts: \$10,000.00 for bodily injury to or death of any one person in any one accident and, subject to said limit for one person, \$20,000.00 for bodily injury to or death of two or more persons in any one accident, and the amount of \$5,000.00 for damage to property of others in any one accident.

2. Evidence of such insurance coverage in the form of a certificate from the insurance carrier shall be filed by the school with the Division and the certificate shall stipulate that the insurance contract carried by the school provides for cancellation only upon 30 days prior written notice to the Division and shall further include the make, model, year and motor or serial number of every vehicle which will be used for instruction.
3. When a vehicle is added to or exchanged in a driving school fleet covered under a fleet insurance plan, the licensee shall provide the Superintendent a copy of a policy rider issued by the insurance carrier showing the addition or exchange, with complete descriptions of the vehicles involved.

**F. Place of business:**

1. The established place of business of each driver training school must be regularly occupied and primarily used by that driver training school for the business of giving driving instructions for hire and the business of preparing members of the public for the examination given by the Division for a motor vehicle operator's license.
2. Each place of business shall be safe and meet all requirements of state law and local ordinances, and the superintendent may require applicants and licenses to provide proof of compliance with local zoning ordinances.
3. Each school shall post its office hours in a conspicuous place and shall be open to the public during these hours. In the absence of the operator, the person left in charge of the office during the posted office hours shall be fully qualified and authorized to give pertinent information to the public concerning lessons and accounts, and to give information to any representative of the Division concerning the operation of the school.
4. When a driving school office is located in an office building, store, or any other physical structure which is not a part of a dwelling, there shall be a clear separation between the driving school business and any other activity housed in the building.
5. The school's license must be conspicuously displayed.
6. All records pertaining to the operation of the school shall be maintained in the established place of business and available for inspection during normal business hours.
7. Every place of business used by each driving school shall provide adequate facilities for any student being given instructions in other than behind-the-wheel driver training.

**G. Branch offices:**

1. A driver training school desiring to open a branch office shall make application on a form prescribed by the Division and accompanied by the required fee of \$50.00. If application is approved, the Division will issue a copy of the license of the principal place of business, appropriately endorsed, for use in the branch office.
2. This copy must be conspicuously displayed in such branch office at all times.
3. A branch office may not be removed to a new location without prior approval of the Division.

4. Should a branch office be discontinued, the branch office copy of the license must be surrendered immediately to the Division.
5. The branch office must meet all of the requirements of the licensed principal place of business and must be equipped to, and shall perform, substantially the same services apply to the principal place of business.
6. Branch offices are restricted to the county wherein the principal place of business is located.

**H. Advertising:**

1. A school shall not use any name other than its licensed name for advertising or publicity purposes. Nor shall the school use the word "State" in any part of the school name. A licensed school which advertises, solicits patrons, or conducts the business regulated by A.R.S. § 32-2351 et seq., by the use of or under a name other than the name by which the school was licensed, must apply for and obtain an original license for such school before it may lawfully operate.
2. No driving school advertisement shall indicate in any way that a school can issue or guarantee the issuance of a driver's license, or imply that the school can in any way influence the Division in the issuance of a driver's license or imply that preferential or advantageous treatment from the Division can be obtained.
3. Schools that are in fact licensed by the Division may in their advertising state they are "LICENSED" but shall not indicate that a school is approved, sanctioned, or in any other way endorsed by the Division.

**I. Professional conduct:**

1. No driving school instructor, employee, or agent will be permitted to accompany any student into any examining office rented, leased, or owned by the Division of Motor Vehicles for the purpose of taking a driver license examination.
2. No driving school instructor, employee, or agent will be permitted to personally solicit any individual on the premises rented, leased, or owned by the Division of Motor Vehicles for the purpose of enrolling them in any professional driving school.
3. Violation of any of the provisions of this Article may be grounds for the cancellation, suspension or revocation of an instructor's license or a school's license, subject to the provisions of A.R.S. §§ 32-2373 and 32-2391 and these rules.

**J. Records and contracts:** Every licensee shall maintain the following records:

1. A permanently bound book or a card file setting forth the name, address, contract number, and terms of payment with respect to every person receiving lessons, lectures, tutoring, instructions of any kind or any other service relating to instructions in the operations of a motor vehicle. The book or card file shall also contain records showing the date, type, and duration of all lessons, lectures, tutoring and instructions including the name of the instructor giving such lessons and the tag number, make and model of vehicle used to conduct the training.
2. A record of all receipts and disbursements.
3. If a licensee enters into written contracts with any person or group of persons receiving lessons, lectures, tutoring or instructions relating to the operation of a motor vehicle, the original contract must be given to the student or his agent who executes the contract, and a carbon copy of the contract retained as part of the records of the license.
4. All records must be retained for three years.

**K. Equipment:**

1. All vehicles used for driver training must be equipped with the following:
  - a. Any motor vehicle with an automatic transmission must be equipped with at least a dual braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
  - b. Any motor vehicle equipped with a standard transmission must have at least a dual clutch and braking device which will enable an accompanying instructor to bring the car under control in case of an emergency.
2. All vehicles must be maintained in safe operating conditions at all times.

**L. Suspension, revocation, cancellation and denial of driver training school and driver training instructor licenses:**

1. The superintendent may suspend or revoke the license of any driver training school or driver training instructor:
  - a. If the licensee fails to do anything which is required by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors.
  - b. If the licensee does anything which is prohibited by the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools or driver training instructors.
  - c. If the application contains any misstatements or misrepresentations.
2. No license fee will be refunded in the event a license is suspended or revoked.
3. The superintendent may deny any application for a driver training school or driver training instructor's license, if the applicant does not qualify for the license under the provisions of A.R.S. Title 32, Chapter 23, or these rules relating to driver training schools and driver training instructors. Previous revocation, misstatements or misrepresentations may be grounds for denying a license.

**M. The superintendent, upon determining that grounds for cancellation of a license exist, shall give notice thereof to the licensee in writing, and by the notice shall require the licensee to appear before him at a specified time and place, then and there to show cause why his license should not be cancelled. At the time and place fixed by the superintendent, which shall be not less than 10 days after notice, the licensee shall appear and be heard and may have other persons he desires present and testify at the hearing.**

**Historical Note**

New Section recodified from R17-4-512 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**ARTICLE 4. DEALERS**

**R17-5-401. Reserved**

**R17-5-402. Bond Amounts; Motor Vehicle Dealers, Brokers, and Recyclers Business Licenses**

- A.** As prescribed under A.R.S. § 28-4362, the Division shall require a bond in the amount specified for the following motor vehicle business license applicants:
  1. \$100,000 from a motor vehicle dealer engaged in selling new or used motor vehicles,
  2. \$25,000 from a wholesale motor vehicle dealer,
  3. \$25,000 from a wholesale motor vehicle auction dealer,
  4. \$25,000 from a motor vehicle broker, and
  5. \$20,000 from an automotive recycler.
- B.** An applicant shall submit a bond in a form prescribed by the Division Director. The Division shall not accept a handwritten bond.

**Historical Note**

New Section recodified from R17-4-240 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2).

**R17-5-403. Bond Amount; Motor Vehicle Title Service Business License**

- A.** As prescribed under A.R.S. § 28-5005, the Division shall require a \$25,000 bond for a motor vehicle title service company applying for a business license.
- B.** An applicant shall submit a bond in a form prescribed by the Division Director. The Division shall not accept a handwritten bond.

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 1864, effective August 2, 2003 (Supp. 03-2).

**R17-5-404. Dealer Title Requirements for Vehicle Sale**

For purposes of A.R.S. § 28-4409(A), the dealer's name shall be recorded on a title certificate as transferee or purchaser.

**Historical Note**

New Section recodified from R17-4-241 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-405. Motor Vehicle Dealer Acquisition Contract**

- A. Definitions.**
  1. "Contract" or "Dealer acquisition contract" has the meaning prescribed under A.R.S. § 28-4410(G)(2).
  2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed in A.R.S. § 28-4301(23).
  3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
  4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
  5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.
  6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.
- B. General Requirements.** For purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer acquisition contract on a form with contents as prescribed under subsection (C).
- C. Content.** A dealer acquisition contract shall contain the following information:
  1. The heading "Dealer Acquisition Contract;"
  2. The dealer's name and dealer license number;
  3. The dealer's business address and telephone number;
  4. The owner's name, address, and telephone number;
  5. The vehicle identification number; license plate number; licensing state; and model, make, and year;
  6. If there is a lien holder:
    - a. The lien holder's name, address, telephone number;
    - b. Lien balance;
    - c. Prepayment penalties, if any; and
    - d. Other information relevant to the terms and conditions of the lien repayment;
  7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (C)(6)(a) and the unpaid lien balance is no greater than disclosed under subsection (C)(6)(b);
  8. The contracted purchase price and a recital that this amount has been either paid directly to the owner or credited to the owner against the purchase price of another vehicle;

9. A statement indicating that the owner is selling and transferring the described vehicle to the dealer;
  10. An authorization by the owner permitting the dealer to obtain all information necessary to verify the accuracy of the lien balance and assure that the balance is paid and the lien is released;
  11. A statement by the owner that the registration document provided to the dealer is the original and most recent registration issued for the vehicle;
  12. An agreement indicating whether the owner or dealer is responsible to satisfy the lien balance;
  13. An authorization by the owner permitting the dealer to obtain the original title certificate from the lien holder; endorse the owner's name on the title; and if necessary, transfer the title to the dealer;
  14. A statement that if the owner receives the certificate of title, the owner shall immediately deliver the title to the dealer and provide any signature and acknowledgment necessary to complete the title transfer to the dealer;
  15. The date the contract is executed;
  16. The dealer's signature; and
  17. The owner's signature.
- D.** A dealer or an owner who adds to a dealer acquisition contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- E.** Disposition. When a dealer prepares a dealer acquisition contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the date the vehicle is sold.
- F.** Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer acquisition contract. This Section furnishes only information required in a dealer acquisition contract. It does not detail any additional contractual requirements that may be defined under other Arizona statutes.

#### Historical Note

New Section recodified from R17-4-245 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3).

#### R17-5-406. Motor Vehicle Dealer Consignment Contract

- A.** Definitions.
1. "Contract" or "Dealer consignment contract" has the meaning prescribed under A.R.S. § 28-4410(G)(1).
  2. "Dealer" or "Motor vehicle dealer" has the meaning prescribed under A.R.S. § 28-4301(23).
  3. "Division" means the "Motor Vehicle Division" of the Arizona Department of Transportation and any authorized agent.
  4. "Vehicle" or "motor vehicle" has the meaning prescribed under A.R.S. § 28-4301(22).
  5. "Owner" means a person prescribed under A.R.S. § 28-101(36)(a), that has the legal right to sell or dispose of the motor vehicle.
  6. "State" means the "state of Arizona" and all its agencies and political subdivisions and their officers and agents.
- B.** General Requirements. For purposes of A.R.S. § 28-4410, a dealer shall prepare a dealer consignment contract on a form with contents as prescribed under subsection (C).
- C.** Content. A dealer consignment contract shall contain the following information:
1. The heading "Dealer Consignment Contract;"

2. The dealer's name and dealer license number;
  3. The dealer's business address and telephone number;
  4. The owner's name, address, and telephone number;
  5. The vehicle identification number; license plate number; licensing state; and model, make, and year;
  6. If there is a lien holder:
    - a. The lien holder's name, address, telephone number;
    - b. Lien balance;
    - c. Prepayment penalties, if any; and
    - d. Other information relevant to the terms and conditions of the lien repayment;
  7. A statement by the owner that the vehicle is free and clear of all liens and encumbrances, except those disclosed under subsection (C)(6)(a) and the lien balance is no greater than that disclosed under subsection (C)(6)(b);
  8. An authorization by the owner permitting the dealer to market and sell the vehicle on behalf of the owner at a mutually-agreed upon, specified, minimum price;
  9. An agreement by the dealer to inform any prospective purchaser that the vehicle is on consignment;
  10. An agreement by the dealer that, upon receiving the sale proceeds, the dealer shall immediately satisfy all disclosed liens and ensure that the liens are released;
  11. An agreement by the owner that, upon the completion of the sale and after receiving the sale proceeds, the owner shall promptly deliver and endorse the title certificate for reassignment to the purchaser;
  12. The expiration date of the consignment contract;
  13. An agreement by the dealer to deliver the vehicle to the owner at a specified location on the date that the contract expires or terminates;
  14. An agreement by the owner to pay any specified fees due the dealer upon the return of the vehicle, after the expiration or termination of the consignment contract;
  15. The date the contract is executed;
  16. The dealer's signature; and
  17. The owner's signature.
- D.** A dealer or an owner who adds to a dealer consignment contract a provision not described in this Section shall ensure that the provision does not conflict with or alter the meaning of a provision of this Section.
- E.** Disposition. When a dealer prepares a dealer consignment contract as prescribed under this Section, the dealer shall give a copy to the owner and keep the original at the dealer's established place of business for three years after the date that the contract expires or terminates, or the vehicle is sold.
- F.** Disclaimer. In complying with this Section, a dealer shall not interpret or claim compliance to be an approval by the state of the fairness, validity, or legality of a dealer consignment contract. This Section furnishes only information required in a dealer consignment contract. It does not detail any additional contractual requirements that may be defined under other Arizona statutes.

#### Historical Note

New Section recodified from R17-4-246 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 8 A.A.R. 4234, effective November 15, 2002 (Supp. 02-3).

#### R17-5-407. Motor vehicle repossession procedures

- A.** A.R.S. § 28-315 reads in part as follows: "When the title or interest of an owner in or to a registered vehicle passes to another through notice and sale under the conditions contained in a chattel mortgage, conditional sale or other evidence of lien ... the transferee may secure a transfer of registration to himself, and a new certificate of title, upon presenting satisfactory

evidence to the vehicle division that the sale of the vehicle was fairly and lawfully conducted in conformity with all requirements of law after due notice to the former owner.”

1. The seller on a **CONDITIONAL SALES CONTRACT** properly filed with the Division, or the seller’s assignee, may upon retaking of a vehicle because of default in the performance of the terms in the contract, secure a transfer of ownership to the transferee by complying with the requirements as listed below, applicable to the then existing fact situation:

2. **WHEN THE BUYER HAS PAID AT LEAST 50% OF PURCHASE PRICE**, A.R.S. § 44-319 provides for compulsory resale by seller if the buyer has paid at least 50% of the purchase price at the time of retaking. The applicant for a certificate of title to a vehicle sold under this Section must furnish the vehicle division with the following:

- a. An affidavit by the seller or an assignee of the conditional seller covering but not limited to these items:
  - i. Name of purchaser and description of vehicle.
  - ii. Date and total amount of contract (must agree with similar information shown on title and lien filing receipt).
  - iii. Purchase price of vehicle as shown in contract.
  - iv. Amount paid on purchase price at time of retaking vehicle.
  - v. Statement that resale was made under provisions of A.R.S. § 44-319.
  - vi. Place and date seller retook possession.
  - vii. Statement that resale was held not more than thirty days after retaking.
  - viii. Statement that buyer was given not less than 10 days’ written notice of sale and whether personally or by registered mail directed to the buyer at his last known place of business or residence.
  - ix. Statement that notice of sale was posted in three different public places at least five days before the sale.
  - x. If, at the time of retaking, \$500.00 or more had been paid on the purchase price, statement that notice of sale was given at least five days before the sale by publication in a newspaper published or having general circulation in the filing district where the vehicle was sold.
- b. Copy of notice of sale given to purchaser.
- c. Publisher’s affidavit of publication of notice of sale, in the event \$500.00 or more paid on purchase price.
- d. Bill of sale to buyer at resale, showing amount paid for vehicle.

**B. Requirements when there is no resale.**

1. When compulsory resale is not required and the seller wishes to retail the vehicle as his own property as provided for in A.R.S. § 44-323, the seller must furnish the vehicle division with an affidavit covering but not limited to these items:
  - a. Name of purchaser and description of vehicle.
  - b. Date and total amount of contract. (Must agree with similar information shown on title and lien filing receipt.)
  - c. Purchase price of vehicle as shown in contract.
  - d. Amount paid on purchase price at time of retaking vehicle, and statement that such amount was less than 50% of the purchase price.
  - e. If notice of intention to retake as provided for in A.R.S. § 44-317 was given, statement to that effect.

- f. If seller did not give the notice of intention to take as described in A.R.S. § 44-317, a statement that the vehicle was retained for 10 days after retaking within the state in which the vehicle was located when retaken, during which period the buyer did not pay or tender payment of the amount due under the contract or meet the requirements necessary to redeem the vehicle as provided for in A.R.S. § 44-318.
- g. Statement that the applicant (seller or his assignee) has complied with all the applicable provisions of Title 44, Chapter 3, Arizona Revised Statutes, and therefore is entitled to have a title issued in his name.

**C. Resale at option of buyer or seller.**

1. A.R.S. § 44-320 provides that:
  - a. “If the buyer has not paid at least 50% of the purchase price at the time of the retaking, the seller shall not be under a duty to resell the goods as prescribed in A.R.S. § 44-319, unless the buyer serves upon seller, within 10 days after retaking, a written notice demanding a resale, delivered personally or by registered mail. If such notice is served, the resale shall take place within thirty days after the service, in the manner, at the place and upon the notice prescribed in A.R.S. § 44-319. The seller may voluntarily resell the goods for account of the buyer on compliance with the same requirements.”
  - b. If a resale was demanded by the purchaser under the provisions of A.R.S. § 44-320, the applicant for a certificate of title will be required to furnish the Division with the same items which the Division has indicated must be furnished in connection with a vehicle sold under the provisions of A.R.S. § 44-319.

**D. Requirements in connection with foreclosure of mortgage by notice and sale as provided for in A.R.S. § 33-757.**

1. The applicant for a Certificate of Title to a vehicle sold under the provision of A.R.S. § 33-757 must furnish the vehicle division with the following:
  - a. An affidavit by the mortgagee covering but not limited to these items:
    - i. A statement that a mortgage against the vehicle was foreclosed by notice and sale as provided for in A.R.S. § 33-757.
    - ii. A statement giving the name of the mortgagee and the amount and date of the mortgage, which information must agree with like information shown on the title and lien filing receipt issued by the Division.
    - iii. Statement that at least 10 days before the date set for sale, a notice of the sale was personally served upon the mortgagor or subsequent purchaser of whom the mortgagee has knowledge and upon all persons having junior recorded liens upon the vehicle or that service was made as provided for in subsection (D) of A.R.S. § 33-757; by mailing a copy of the notice of sale at least 10 days before the date set for the sale by registered mail addressed to the persons upon whom service or notice of sale is required, addressed to such persons at last known address.
    - iv. A statement that, not less than 10 days prior to the date of sale, a notice of the sale was posted in three public places in the county in which the

- sale was held and that the notice was published once in a paper of general circulation in the county where the sale was held.
- v. Copy of notice of sale, which must contain a full description of the mortgaged property, the time, place and terms of sale.
- vi. Publisher's affidavit of publication of notice of sale.
- vii. Bill of sale to buyer showing amount paid for vehicle.

**E. Small loans.**

1. If a chattel mortgage taken by a licensed small loan company is in default and the mortgage contains power of sale, such sale may be made upon such notice and terms as therein agreed, without foreclosure proceedings.
2. The applicant for a certificate of title to a vehicle sold under the provisions of A.R.S. § 6-630 must furnish the Vehicle Division with the following:
  - a. An affidavit made by the licensed small loan company covering but not limited to these items: Statement that sale of vehicle was made under provisions of A.R.S. § 6-630(C), and that such sale was made upon such notice and terms as agreed in the chattel mortgage.
  - b. Copy of notice of sale given mortgagor.
  - c. Bill of sale to purchaser (applicant) showing selling price.
  - d. Copy of Chattel Mortgage.

**F. Fees and application forms to be used. On a transfer of ownership when the vehicle carries current year license plates, application for title will be made on Form 92 direct to the Motor Vehicle Division. The following fees must accompany the application:**

1. \$1.00, Title Fee
  - .25, Lien Clearance Fee
  - .50, For transfer of Registration
  - .50, For a Duplicate Registration Card, in the event the current Registration Card does not accompany application.
2. If the vehicle is not currently registered and license plates are not desired, the application will be made on Form 44-3153 direct to the Motor Vehicle Division, with a fee of \$1.25.
3. If the vehicle is not registered and license plates are desired, application will be made at the office of the County Assessor on Form 44-3153.

**Historical Note**

New Section recodified from R17-4-260 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**ARTICLE 5. FINANCIAL RESPONSIBILITY****R17-5-501. Definitions**

In this Article, unless the context otherwise requires:

1. "Binder" means a contract for temporary insurance as described in A.R.S. § 20-1120.
2. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
3. "Initial motor vehicle registration" means the first time a motor carrier registers a specific motor vehicle or a vehicle combination in Arizona.
4. "Insurance company" means an entity that is in the business of issuing motor carrier liability insurance policies.
5. "Lightweight motor vehicle" has the meaning in A.R.S. § 28-5201(6).
6. "Managing general agent" has the meaning in A.R.S. § 20-284(A).

7. "Motor carrier" has the meaning in A.R.S. § 28-5201(8).
8. "Motor vehicle" has the meaning in A.R.S. § 28-5201(9).
9. "Motor vehicle liability policy" has the meaning in A.R.S. § 28-4001(4).
10. "Proof of financial responsibility" has the meaning in A.R.S. § 28-4001(7).
11. "Vehicle combination" has the meaning in A.R.S. § 28-5431(3).

**Historical Note**

New Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

**R17-5-502. Insurance Company Reporting Requirements**

- A. Definitions. In this Section and in R17-5-503, unless the context otherwise requires:
  1. "Business week" means Monday through Friday, except holidays.
  2. "Cartridge tape" means a data delivery medium that conforms to the cartridge tape specifications stated at R17-5-503(C).
  3. "Cartridge tape reporting" means weekly delivery from a company to the Division of data placed on cartridge tape.
  4. "Company" means an insurance or indemnity company authorized to write motor vehicle liability coverage in Arizona.
  5. "Division" means the Arizona Department of Transportation, Motor Vehicle Division.
  6. "Electronic data interchange" or "EDI" means the transmission of data in a standardized format from one computer to another computer without magnetic tape.
  7. "EDI reporting" means weekly computer-to-computer transmission of data from a company to the Division, followed by error return from the Division to the company.
  8. "File transfer protocol" means EDI reporting transmitted to the Division over the Internet.
  9. "Information exchange" means EDI reporting where:
    - a. A company or a service provider transmits a report to the Division through a connection to a private information network, and
    - b. The private information network bases the charges for the connection to the network on the number of characters and messages transmitted.
  10. "Manual reporting" means weekly delivery from a company to the Division of:
    - a. A report typed on company letterhead, or
    - b. An e-mail report.
  11. "Motor vehicle liability policy" has the meaning prescribed in A.R.S. § 28-4001(4).
  12. "Network job entry" means EDI reporting where:
    - a. A company or service provider transmits a report to the Division through a connection to a private information network, and
    - b. The private information network bases the charges for the connection to the network on the installation and lease of a dedicated communications line.
  13. "Private information network" means a group of interconnected computers, including the hardware and software used to connect them.
  14. "Reportable activity" means:
    - a. A policy cancellation,
    - b. A policy nonrenewal,
    - c. A new policy issue,
    - d. A vehicle added to a policy,
    - e. A vehicle deleted from a policy, or
    - f. A policy reinstatement.

15. "Service provider" means a person or entity that provides:
  - a. A connection to a private information network for EDI reporting, or
  - b. Cartridge tape reporting for a company.
16. "X12-811" means the standard format for delivering or transmitting insurance data.
- B. Reporting schedule.** At least once each business week, a company shall submit to the Division:
  1. All reportable activities, not previously reported, processed by the company seven or fewer days before the reporting date; or
  2. If no reportable activities occurred by the reporting date, a statement of inactivity:
    - a. Typed on company letterhead,
    - b. Transmitted by e-mail, or
    - c. Transmitted by EDI.
- C. EDI and X12 conversion schedule.** By February 1, 2001, a company that submits cartridge tape reporting or manual reporting and does not qualify for an exception under subsection (F), shall establish a schedule under subsection (D)(1) or subsection (D)(2) and the main provision of subsection (E) by contacting the Division as follows:
  1. Arizona Department of Transportation, Motor Vehicle Division, Mail Drop 532M, 1801 West Jefferson, Phoenix, Arizona 85007; or
  2. Telephone number (602) 712-8308.
- D. EDI types.** Beginning August 1, 2001, a company shall submit the information required under subsection (B)(1) by EDI reporting, unless qualified for an exception under subsection (F).
  1. For EDI reporting by information exchange or network job entry, a company shall:
    - a. Obtain:
      - i. A connection to a private information network, or
      - ii. A service provider;
    - b. Obtain any necessary software;
    - c. Obtain the Division's service provider account number; and
    - d. Arrange for and conduct an initial transmission of data to the Division.
  2. For EDI reporting by file transfer protocol, a company shall:
    - a. Obtain:
      - i. An on-line connection to the Internet, or
      - ii. A service provider;
    - b. Obtain the Division's Internet address; and
    - c. Arrange for and conduct an initial transmission of data to the Division.
- E. Reporting formats.** Beginning August 1, 2001, a company shall submit the information required under subsection (B)(1) in the format titled Arizona Adaptation of X12 (TS811) for Policy Receipt, incorporated by reference at R17-5-503(A), unless qualified for an exception under subsection (F).
  1. If qualified for an exception under subsection (F)(1), a company shall submit cartridge tape reporting:
    - a. On a cartridge tape that meets the specifications of R17-5-503(C), and
    - b. In the format located at R17-5-503(D).
  2. If qualified for an exception under subsection (F)(2), a company shall submit manual reporting with all the information listed in column 1 of the format located at R17-5-503(D).
- F. EDI and X12 exceptions.** A company shall submit weekly EDI reporting in the format titled Arizona Adaptation of X12 (TS811) for Policy Receipt unless qualified for an exception under this subsection.
  1. For cartridge tape reporting after July 31, 2001, a company shall affirm in writing by February 1, 2001, and by February 1 of each following year, that:
    - a. The company had fewer than 10,000 motor vehicle liability policies in place in Arizona on January 1 of the year;
    - b. The company does not submit EDI reporting to any other state; and
    - c. The company will sustain a financial burden from EDI reporting.
  2. For manual reporting after July 31, 2001, a company shall affirm in writing by February 1, 2001, and by February 1 of each following year, that:
    - a. The company had fewer than 100 motor vehicle liability policies in place in Arizona on January 1 of the year;
    - b. The company does not submit EDI reporting or cartridge tape reporting to any other state; and
    - c. The company will sustain a financial burden from either EDI reporting or cartridge tape reporting.
  3. An officer or director of a company shall sign a written affirmation made under subsection (F)(1) or subsection (F)(2).
  4. A company shall submit the signed affirmation to the Arizona Department of Transportation, Motor Vehicle Division, Mail Drop 532M, 1801 West Jefferson, Phoenix, Arizona 85007.
  5. A company that qualifies for an exception to EDI reporting under subsection (F)(2) shall obtain the Division's approval of the type of manual reporting used by the company.
- G. Error return.** The Division shall return reporting errors to a company as follows:
  1. If a company uses the Arizona Adaptation of X12 (TS811) for Policy Receipt, the Division shall use the Arizona Adaptation of X12 (TS811) for Policy Error Return, incorporated by reference at R17-5-503(B), to return reporting errors to the company after submission of the information required under subsection (B)(1); or
  2. If a company qualifies for an exception under subsection (F), the Division shall instruct the company to correct cartridge tape reporting errors or manual reporting errors that affect the Division's processing of the information required under subsection (B)(1).
- H. Noncompliance procedures.** If a company fails to submit the information required under subsection (B)(1), the Division shall:
  1. Send a dated written notice to the company that:
    - a. Identifies the business week when the company did not submit the information required under subsection (B)(1);
    - b. Instructs the company to submit the information for the identified business week by seven days after the date of the notice; and
    - c. Warns the company to comply with the notice or the Division will proceed under A.R.S. § 20-237; and
  2. If the company does not comply with the notice sent under subsection (H)(1), proceed under A.R.S. § 20-237.

**Historical Note**

New Section recodified from R17-4-226 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-503. Reporting Formats, Cartridge Tape Specifications, and Required Information for Manual Reporting**

- A.** X-12 reporting format. Beginning August 1, 2001, a company not qualifying for an exception under R17-5-502(F) shall submit EDI reporting in the format titled Arizona Adaptation of X12 (TS811) for Policy Receipt, September 24, 1999, incorporated by reference and on file with the Division and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
- B.** X-12 error return format. To return errors to a company using the format specified at subsection (A), the Division shall use the format titled Arizona Adaptation of X12 (TS811) for Policy Error Return, September 24, 1999, incorporated by reference and on file with the Division and the Office of the Secretary of State. This incorporation by reference contains no future editions or amendments.
- C.** Cartridge tape specifications. A cartridge tape used for reporting by a company to the Division shall meet the following specifications:

|                     |                               |
|---------------------|-------------------------------|
| Record Length       | 197 Bytes                     |
| Blocking Factor     | 1970 (10 records per block)   |
| Tape Medium         | Standard IBM 3480 Cartridge   |
| Tape Density        | Standard 3480, Not Compressed |
| Tape Internal Label | NL (Nonlabeled tapes)         |

- D.** Cartridge tape format. A company may use the following reporting format only through July 31, 2001, unless the company qualifies for an exception under R17-5-502(F)(1):

| Information Required                            | Bytes | Field Type        | Field Description   |
|---|-------|-------------------|---|
| VIN [except as provided in A.R.S. § 28-4148(D)] | 25    | Alpha/<br>Numeric | Complete VIN, left justified                                      |
| Make  | 5     | Alpha             |   |
| Year  | 2     | Numeric           |   |
| Cancel Date                                     | 6     | Numeric           | MMDDYY (all zeroes new issues; no future dates for cancellations) |
| Policy Number                                   | 30    | Alpha/<br>Numeric | Left Justified  |
| Insurance Code                                  | 4     | Numeric           |   |
| Name (Last, First)                              | 40    | Alpha/<br>Numeric | Left Justified  |
| Address   | 40    | Alpha/<br>Numeric | Left Justified  |
| City  | 25    | Alpha/<br>Numeric | Left Justified  |
| State   | 2     | Alpha             |   |
| Zip Code  | 9     | Numeric           | Left Justified  |
| Driver's License Number                         | 9     | Alpha/<br>Numeric | Left Justified, optional  |

- E.** Manual reporting requirements. A company that qualifies for an exception under R17-5-502(F)(2) shall provide all the information listed in column 1 of the format located at subsection (D).

**Historical Note**

New Section recodified from R17-4-226.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-504. Requirement to Submit Proof of Financial Responsibility; Applicability and Procedure**

- A.** If a motor carrier under A.R.S. § 28-4032 does not insure its motor vehicle or vehicle combination by an insurance company that reports to the Division under A.R.S. § 28-4148, R17-5-502, or R17-5-503, the motor carrier shall submit proof of financial responsibility as prescribed in this Section, and in the amount required under A.R.S. § 28-4033(A), as follows:
- At the time of initial motor vehicle registration, or
  - As notified by the Division under R17-5-506.
- B.** An insurance company, its managing general agent, broker, or agent may submit, on behalf of a motor carrier, proof of financial responsibility to the Division.
- C.** As proof of financial responsibility, a motor carrier shall submit the original or photocopy of:
- A valid liability insurance policy;
  - A binder dated within 90 days of filing with the Division;
  - A completed and signed Form E Uniform Motor Carrier Bodily Injury and Property Damage Liability Certificate of Insurance listed in subsection (E), naming the Arizona Department of Transportation as the Commission;
  - A completed and signed Certificate of Liability Insurance form listed in subsection (F) naming the Arizona Department of Transportation, Motor Vehicle Division as the certificate holder; or
  - A certificate of self-insurance issued by the Division after a motor carrier meets the requirements of A.R.S. §§ 28-4007 and 28-4135.
- D.** Before a binder submitted as proof of financial responsibility expires, a motor carrier shall submit:
- A binder from an insurance company other than the insurance company named in the first binder; or
  - Proof of financial responsibility listed in subsections (C)(1) or (C)(3) through (C)(5).
- E.** A person may obtain a Form E from:  
Uniform Information Services, Inc.  
125 Nagog Park, Acton, Massachusetts 01720;  
Telephone: (800) 872-0700;  
Fax: (978) 263-1824; or  
Web site: [www.uniforminformationservices.com](http://www.uniforminformationservices.com).
- F.** A person may obtain a Certificate of Liability Insurance form from:  
ACORD  
1 Blue Hill Plaza, P.O. Box 1529, 15th Floor  
Pearl River, New York 10965;  
Telephone: (800) 444-3341 extension 506;  
Fax: (845) 620-3600; or  
Web site: [www.acord.org](http://www.acord.org).

**Historical Note**

New Section recodified from R17-4-445 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Amended by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

**R17-5-505. Repealed****Historical Note**

New Section recodified from R17-4-446 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).



**R17-5-506. Failure to Maintain Proof of Financial Responsibility and Suspension**

- A.** If a motor carrier's proof of financial responsibility expires, is cancelled, or lapses, with no new proof of financial responsibility submitted to the Division, the Division shall send the motor carrier a dated intent-to-suspend notice by regular mail.
1. A motor carrier shall, within 20 days after the date of the intent-to-suspend notice, submit to the Division proof of financial responsibility that complies with R17-5-504.
  2. If a motor carrier does not submit proof of financial responsibility within the time prescribed under subsection (A)(1), the Division shall immediately suspend the motor carrier's vehicle registration.
  3. If a motor carrier submits proof of financial responsibility during a suspension, the Division shall immediately reinstate the motor carrier's vehicle registration.
- B.** A motor carrier may request a hearing for a vehicle registration suspension as follows:
1. 17 A.A.C. 1, Article 5 applies to a hearing request and to any hearing.
  2. An Administrative Law Judge shall limit the scope of a hearing to whether the motor carrier has proof of financial responsibility under R17-5-505.

**Historical Note**

New Section recodified from R17-4-447 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed; new Section made by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

**R17-5-507. Repealed****Historical Note**

New Section recodified from R17-4-448 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3). Section repealed by final rulemaking at 9 A.A.R. 235, effective March 11, 2003 (Supp. 03-1).

**ARTICLE 6. IGNITION INTERLOCK DEVICES****R17-5-601. Ignition Interlock Device Program Definitions**

In Sections R17-5-602 through R17-5-610 and A.A.C. R17-4-408, unless the context otherwise requires:

"Audit" means an examination by Arizona Department of Transportation, Motor Vehicle Division personnel of participant records, and supplies of warning labels and written instructions.

"Authorized installer" means a person or entity appointed by a manufacturer to install and service certified ignition interlock devices provided by the manufacturer.

"Calibration" means the testing, adjustment, or systematic standardization of an ignition interlock device to determine and verify the device's accuracy.

"Certified ignition interlock device" has the meaning prescribed in A.R.S. § 28-1301(1).

"Data logger sheet" means a printed report generated from an ignition interlock device that contains all activities, data recordings, and actions pertaining to the device.

"Division" means the Arizona Department of Transportation, Motor Vehicle Division.

"Ignition interlock device" has the meaning prescribed in A.R.S. § 28-1301(4).

"Independent laboratory" means a testing facility, not owned or operated by a manufacturer, that can test an ignition interlock device according to Sections 1 and 2 of the National Highway Traffic Safety Administration (NHTSA) Specifica-

tions for Breath Alcohol Ignition Interlock Devices (BAIIDs), 57 FR 11772 to 11787, April 7, 1992.

"Manufacturer" means a person or entity that provides ignition interlock devices, requests the Division to certify a model of ignition interlock device, and appoints and oversees authorized installers of the certified ignition interlock device.

"Material modification" means a change to a certified ignition interlock device that affects the functioning of the device.

"NHTSA specifications" means the specifications for breath alcohol ignition interlock devices published at 57 FR 11772 to 11787, April 7, 1992.

"Participant" means a person who is ordered by an Arizona court or the Division to equip each motor vehicle operated by the person with a functioning certified ignition interlock device and who becomes an authorized installer's customer for installation and servicing of the certified ignition interlock device.

"Use" means to install, operate, service, repair, or remove an ignition interlock device.

**Historical Note**

New Section recodified from R17-4-709 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-602. Ignition Interlock Device Certification; Application Requirements**

- A.** A participant shall have installed in a motor vehicle only an ignition interlock device certified by the Division under R17-5-602 and R17-5-603.
- B.** For certification of an ignition interlock device model, a manufacturer shall submit to the Division a properly completed application form that provides:
1. The manufacturer's name;
  2. The manufacturer's business address and telephone number;
  3. The manufacturer's status as a sole proprietorship, partnership, limited liability company, or corporation;
  4. The name of the sole proprietor or of each partner, officer, director, manager, member, agent, or 20% or more stockholder;
  5. The name and model number of the ignition interlock device and the name under which the ignition interlock device will be marketed; and
  6. The following statements, signed by an authorized representative for the manufacturer and acknowledged by a notary public or Division agent:
    - a. A statement that all information on the application form and attachments to the application form are complete, true, and correct;
    - b. A statement that the manufacturer agrees to indemnify and hold the state of Arizona, the Division, and any department, division, agency, officer, employee, or agent of the state of Arizona harmless from all liability for:
      - i. Damage to property or injury to people arising, directly or indirectly, out of any act or omission by the manufacturer or authorized installer relating to use of the ignition interlock device; and
      - ii. All court costs, expenses of litigation, and reasonable attorneys' fees;
    - c. A statement that the manufacturer agrees to comply with the alcohol setpoint established by the Division for certified ignition interlock devices and printed on the application form; and

- d. A statement that the manufacturer agrees to comply with the requirements of R17-5-601 through R17-5-609.
- C. With the application form, the manufacturer shall submit the following additional items:
  - 1. A document that provides a detailed description of the ignition interlock device and a photograph, drawing, or other graphic depiction of the device;
  - 2. A document that contains complete technical specifications of the accuracy, reliability, security, data collection and recording, and tamper detection of the ignition interlock device;
  - 3. An independent laboratory's report that:
    - a. Presents data that demonstrate the ignition interlock device meets or exceeds the test results required by Sections 1 and 2 of the NHTSA specifications published at 57 FR 11772 to 11787, April 7, 1992. The NHTSA specifications are incorporated by reference and are on file with the Division and the Office of the Secretary of State. The NHTSA specifications are also available from the Office of Research & Traffic Records, Room 6240 (NTS-30), NHTSA, 400 7th Street S.W., Washington, D.C. 20590, Telephone: (202) 366-5593. This incorporation by reference contains no future editions or amendments;
    - b. Provides the independent laboratory's name, address, and telephone number; and
    - c. Provides the name and model number of the ignition interlock device tested;
  - 4. A laboratory certification form, signed by an authorized representative of the independent laboratory that prepared the report required in subsection (C)(3) and acknowledged by a notary public or Division agent, that states:
    - a. The laboratory is not owned or operated by a manufacturer;
    - b. The laboratory tested the ignition interlock device in accordance with Sections 1 and 2 of the NHTSA specifications;
    - c. The ignition interlock device met or exceeded the test results required by Sections 1 and 2 of the NHTSA specifications;
    - d. The laboratory used properly maintained equipment and trained personnel to test the ignition interlock device; and
    - e. The laboratory presented accurate test results;
  - 5. A list of all authorized installers of the ignition interlock device, including the name, location, telephone number, contact person, and hours of operation of each authorized installer;
  - 6. The complete written instructions provided to authorized installers for use of the ignition interlock device that include the requirement to affix a warning label, conforming to the design printed on the application form by the Division, to each installed certified ignition interlock device;
  - 7. The complete written instructions provided to participants and other operators of a vehicle equipped with the ignition interlock device; and
  - 8. A certificate of insurance, issued by an insurance company authorized to transact business in Arizona, specifying:
    - a. A product liability policy with a current effective date;
    - b. The name and model number of the ignition interlock device covered by the policy;
    - c. A policy limit of at least \$1,000,000;

- d. The manufacturer as the insured and the Division as an additional insured;
- e. Product liability coverage for defects in manufacture, materials, design, calibration, and use of the ignition interlock device; and
- f. The insurance company will notify the Division at least 30 days before canceling the product liability policy.

**Historical Note**

New Section recodified from R17-4-709.01 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-603. Application Completeness; Refusal to Certify an Ignition Interlock Device; Hearing.**

- A. An application is complete when the Division receives:
  - 1. A properly filled out application form,
  - 2. All additional items required by R17-5-602(C), and
  - 3. An outside reviewer's written confirmation or disapproval of the independent laboratory's report that the ignition interlock device meets the NHTSA specifications. The Division shall choose an agency or individual outside the Division to review an independent laboratory's report.
- B. The Division shall refuse to certify an ignition interlock device upon finding any of the following:
  - 1. A defect in design, materials, or workmanship that causes the ignition interlock device to fail to function as intended;
  - 2. Termination or cancellation of the manufacturer's liability insurance;
  - 3. The manufacturer no longer provides the ignition interlock device;
  - 4. False or inaccurate information provided by the manufacturer or independent laboratory, relating to the performance of the ignition interlock device; or
  - 5. Modification of the components, design, or installing and operating instructions that causes the ignition interlock device no longer to satisfy the NHTSA specifications.
- C. The Division shall send written notification to the manufacturer of certification of an ignition interlock device or of refusal to certify the device. The notice of refusal to certify an ignition interlock device shall specify the basis for the refusal.
  - 1. The manufacturer shall address any request for a hearing on the refusal to certify an ignition interlock device to the Arizona Department of Transportation, Motor Vehicle Division, Executive Hearing Office, 1801 West Jefferson, Mail Drop 507M, Phoenix, Arizona 85007. The Division must receive the hearing request within 15 days after the date of mailing of the notice of refusal.
  - 2. A.R.S. §§ 41-1061 through 41-1067 and R17-4-901 through R17-4-912 apply to a hearing on the refusal to certify an ignition interlock device.

**Historical Note**

New Section recodified from R17-4-709.02 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-604. Cancellation of Certification; Hearing**

- A. The Division shall cancel the certification of an ignition interlock device model and remove it from the list of certified ignition interlock devices upon finding any of the following:
  - 1. A defect in design, materials, or workmanship that causes the ignition interlock device model to fail to function as intended;
  - 2. Termination or cancellation of the manufacturer's liability insurance;

3. The manufacturer no longer provides the ignition interlock device model;
  4. False or inaccurate information provided by the manufacturer or independent laboratory, relating to the performance of the ignition interlock device model;
  5. Modification of the components, design, or installing and operating instructions that causes the ignition interlock device model no longer to satisfy the NHTSA specifications;
  6. A voluntary request by the manufacturer to cancel the certification of the ignition interlock device model;
  7. The manufacturer's noncompliance with R17-5-605 through R17-5-609; or
  8. An authorized installer's noncompliance with R17-5-606 through R17-5-609.
- B.** The Division shall send the manufacturer by certified mail, return receipt requested, the notice and order of cancellation of the certification of an ignition interlock device model. The notice and order of cancellation shall:
1. Specify the basis for the action, and
  2. State the Division will schedule a hearing to show cause why the ignition interlock device certification should not be cancelled.
- C.** The notice of hearing shall be sent to the manufacturer by certified mail, return receipt requested.
1. The notice of hearing shall include the date, time, and place for the manufacturer's representative to appear and show cause why the ignition interlock device certification should not be cancelled.
  2. A.R.S. §§ 41-1061 through 41-1067, A.A.C. R17-1-501, R17-1-504 through R17-1-511, and R17-1-513 apply to the show cause hearing.
- D.** Within 60 days after the effective date of an order of cancellation, the manufacturer shall do one of the following at the manufacturer's cost:
1. Remove all decertified ignition interlock devices and install certified ignition interlock devices,
  2. Remove all decertified ignition interlock devices and have a second manufacturer provide and install certified ignition interlock devices, or
  3. Have a second manufacturer remove all decertified ignition interlock devices and provide and install certified ignition interlock devices.
- E.** The Division shall not accept an application for certification of an ignition interlock device from a manufacturer that fails to comply with subsection (D).
- F.** A manufacturer of a previously decertified ignition interlock device model may apply to have the ignition interlock device model recertified by complying with R17-5-602.

**Historical Note**

New Section recodified from R17-4-709.03 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-605. Modification of a Certified Ignition Interlock Device Model**

- A.** A manufacturer shall notify the Division in writing at least 10 days before a material modification is made to a certified ignition interlock device model.
- B.** Before providing a previously certified but materially modified ignition interlock device model for installation in a motor vehicle under an order of an Arizona court or the Division, a manufacturer shall:
1. Submit to the Division a completed application form and all additional items required by R17-5-602(C), and
  2. Obtain certification of the materially modified ignition interlock device from the Division.

- C.** The Division's certification of a materially modified ignition interlock device model does not affect the original certification of the unmodified model.

**Historical Note**

New Section recodified from R17-4-709.04 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-606. Referral to Authorized Installers; Manufacturer Oversight of Authorized Installers**

- A.** A manufacturer shall refer a participant only to an authorized installer.
- B.** A manufacturer shall provide the Division with a toll-free telephone number for a participant to call to obtain names, locations, telephone numbers, contact people, and hours of operation of authorized installers.
- C.** A manufacturer shall ensure that an authorized installer follows the use procedures established by the manufacturer.
- D.** A manufacturer shall ensure that an authorized installer has the training and skills specified by the manufacturer to install, troubleshoot, examine, and verify proper operation of the certified ignition interlock device.
- E.** A manufacturer shall ensure that an authorized installer:
1. Complies with the manufacturer's procedures for removing a certified ignition interlock device from a vehicle, and
  2. Notifies the Division by certified mail, within 10 days after removing a certified ignition interlock device, of the device's removal.
- F.** A manufacturer shall ensure that an authorized installer provides every participant and every person operating a motor vehicle equipped with a certified ignition interlock device with the manufacturer's written instructions for the following:
1. Operating a motor vehicle equipped with the certified ignition interlock device;
  2. Cleaning and caring for the certified ignition interlock device; and
  3. Dealing with vehicle malfunctions or repairs that affect the certified ignition interlock device, including a list of vehicle malfunctions or repairs that affect the device.
- G.** A manufacturer shall ensure that an authorized installer provides to every participant and person operating a motor vehicle equipped with a certified ignition interlock device the manufacturer's specified training in how to operate a motor vehicle equipped with the device.
- H.** A manufacturer shall ensure that an authorized installer affixes to each installed certified ignition interlock device a warning label conforming to the design adopted by the Division.

**Historical Note**

New Section recodified from R17-4-709.05 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-607. Installation Verification; Accuracy Check; Non-compliance Report**

- A.** A manufacturer shall ensure that an authorized installer:
1. Complies with the manufacturer's procedures for installing a certified ignition interlock device, and
  2. Provides a completed and signed Arizona ignition interlock installation verification form (Appendix A) to the participant.
- B.** A manufacturer shall ensure that an authorized installer schedules a participant for accuracy checks as follows:
1. 30 days, 60 days, and 90 days after installation of a certified ignition interlock device; and
  2. After the 90-day accuracy check, at least every 60 days.
- C.** A manufacturer shall ensure that an authorized installer:

1. Submits to the Division within 10 days after an accuracy check of an installed certified ignition interlock device:
    - a. A completed and signed Arizona ignition interlock accuracy check form (Appendix B); or
    - b. If the certified ignition interlock device has signs of tampering, circumvention, or misuse, a completed and signed Arizona ignition interlock noncompliance report (Appendix C) plus the completed and signed Arizona ignition interlock accuracy check form; or
  2. Submits to the Division a completed and signed Arizona ignition interlock noncompliance report form within 10 days after a scheduled accuracy check of an installed certified ignition interlock device when a participant fails to present the motor vehicle with the installed certified ignition interlock device within five days after the scheduled accuracy check.
- D.** A manufacturer shall ensure that the Arizona ignition interlock accuracy check form completed by the authorized installer:
1. States the calibration of the certified ignition interlock device before recalibration,
  2. Has a data logger sheet attached, and
  3. Is signed by the authorized installer.

**Historical Note**

New Section recodified from R17-4-709.06 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

## Department of Transportation – Commercial Programs

**Appendix A. Ignition Interlock Installation Verification**

ARIZONA

## IGNITION INTERLOCK INSTALLATION VERIFICATION

As Ordered by the Court or the Division

COURT OR DIVISION DOCKET No.: \_\_\_\_\_ TODAY'S DATE \_\_\_\_\_

PARTICIPANT NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY \_\_\_\_\_ ST \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE NUMBER: \_\_\_\_\_  
DRIVER LICENSE No OR SS No.: \_\_\_\_\_

INSTALLER NAME: \_\_\_\_\_  
ADDRESS: \_\_\_\_\_  
CITY \_\_\_\_\_ ST \_\_\_\_\_ ZIP \_\_\_\_\_  
PHONE NUMBER: \_\_\_\_\_

IGNITION INTERLOCK DEVICE MANUFACTURER and MODEL TYPE: \_\_\_\_\_

IGNITION INTERLOCK DEVICE SERIAL NUMBER(s): \_\_\_\_\_

## VEHICLE IDENTIFICATION INFORMATION:

TITLE OWNER: \_\_\_\_\_ TITLE No.: \_\_\_\_\_  
Make: \_\_\_\_\_ Model \_\_\_\_\_ VIN \_\_\_\_\_  
Color \_\_\_\_\_ Year \_\_\_\_\_ License Plate No. \_\_\_\_\_  
Odometer reading: \_\_\_\_\_

## PARTICIPANT EDUCATION CHECKLIST

- ☐ I have been instructed on the use of the system.  
☐ I understand how to power the system on and off.  
☐ I have delivered and passed a proper breath sample.  
☐ I have delivered and understand an abort test.  
☐ I understand how the alcohol retest feature works.  
☐ I understand that if I smoke cigarettes or drink alcohol before testing that I may receive a sensitive or fail reading.  
☐ I have been informed of how to obtain service for my system or to have questions answered.  
☐ I have received my operator's manual.  
☐ I have been informed of the penalties for tampering with, circumventing, or misusing the system.  
☐ I have been informed of what happens after failing three breath attempts.  
☐ I have been informed of what happens after failing "rolling retest."

## MONITORING:

Your next monitoring check is \_\_\_\_\_. Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. If you fail to appear you may be found in noncompliance, and your driver license can be suspended for at least one year under A.R.S. § 28-1463.

Signature of Participant: \_\_\_\_\_ Date \_\_\_\_\_

Signature of Installer: \_\_\_\_\_ Date \_\_\_\_\_

Attach copy of Court Order or Division Order for Installation of Ignition Interlock Device.

**Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**Appendix B. Ignition Interlock Accuracy Check**ARIZONA  
IGNITION INTERLOCK  
ACCURACY CHECK

DATE: \_\_\_\_\_

INSTALLER \_\_\_\_\_

MANUFACTURER and MODEL TYPE: \_\_\_\_\_

SERIAL NUMBER(s): \_\_\_\_\_

MONITORING CHECK No. \_\_\_\_\_

PARTICIPANT NAME \_\_\_\_\_

DATE OF BIRTH: \_\_\_\_\_

DRIVER LICENSE No.: \_\_\_\_\_

VEHICLE LICENSE PLATE No.: \_\_\_\_\_

ODOMETER READING: \_\_\_\_\_

CALIBRATION WAS \_\_\_\_\_ BEFORE RECALIBRATION.

THE SYSTEM IS NOW IN CALIBRATION: \_\_\_\_\_

THE SYSTEM HAS BEEN INSPECTED AND IS FUNCTIONING PROPERLY. \_\_\_\_\_

THERE IS NO EVIDENCE OF ATTEMPTED TAMPERING, CIRCUMVENTION, OR MISUSE. \_\_\_\_\_

(IF THERE ARE SIGNS OF TAMPERING, CIRCUMVENTION, OR MISUSE, COMPLETE “NONCOMPLIANCE REPORT”)

COMMENTS:

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Your next monitoring check is \_\_\_\_\_. Your ignition system will remind you that you are due to make an appointment. If you fail to make an appointment, your ignition interlock device will shut down and you will be unable to start your car. It will be your responsibility to have your car towed to the Service Center. If you fail to appear you may be found in noncompliance, and your driver license can be suspended for one year. If convicted of tampering with the ignition interlock device you can be required to use the device for additional time. A.R.S. §§ 28-1463 and 28-1464.

Signature of Participant \_\_\_\_\_ Date: \_\_\_\_\_

Signature of Installer: \_\_\_\_\_ Date: \_\_\_\_\_

ATTACH COPY OF DATA LOGGER SHEET AND SEND TO:  
MOTOR VEHICLE DIVISION, DRIVER IMPROVEMENT UNIT  
PO BOX 2100, MAIL DROP 530M  
PHOENIX, AZ 85001-2100

**Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

## Department of Transportation – Commercial Programs

**Appendix C. Ignition Interlock Noncompliance Report**ARIZONA  
IGNITION INTERLOCK  
NONCOMPLIANCE REPORT

DATE: \_\_\_\_\_  
 INSTALLER: \_\_\_\_\_  
 MANUFACTURER and MODEL TYPE: \_\_\_\_\_  
 SERIAL NUMBER(s): \_\_\_\_\_  
 MONITORING CHECK No.: \_\_\_\_\_

PARTICIPANT NAME: \_\_\_\_\_  
 DATE OF BIRTH: \_\_\_\_\_  
 DRIVER LICENSE No.: \_\_\_\_\_

VEHICLE LICENSE PLATE No.: \_\_\_\_\_

THE PARTICIPANT FAILED TO KEEP APPOINTMENT: \_\_\_\_\_  
 Attempts have been made to contact customer on:

|       |       |
|-------|-------|
| _____ | _____ |
| Date  | Time  |
| _____ | _____ |
| Date  | Time  |
| _____ | _____ |
| Date  | Time  |

THE DEVICE SHOWS EVIDENCE OF TAMPERING, CIRCUMVENTION, OR MISUSE: \_\_\_\_\_  
 Explanation:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Signature of Installer: \_\_\_\_\_ Date: \_\_\_\_\_

SEND TO:  
 MOTOR VEHICLE DIVISION, DRIVER IMPROVEMENT UNIT  
 PO BOX 2100, MAIL DROP 530M  
 PHOENIX, AZ 85001-2100

**Historical Note**

New Appendix recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-608. Emergency Assistance by Authorized Installers; Continuity of Service to Participants**

- A.** A manufacturer shall ensure that an authorized installer provides a participant with a 24-hour emergency phone number for assistance in the event the certified ignition interlock device fails or the vehicle experiences problems related to the ignition interlock device's operation. Emergency assistance provided by the authorized installer shall include technical information, towing service, and road service.
1. If the participant's motor vehicle is located not more than 50 miles from the authorized installer, emergency assistance shall be provided within two hours after the call for assistance.
  2. If the participant's motor vehicle is located not more than 100 miles from the authorized installer, emergency assistance shall be provided within four hours after the call for assistance.
  3. The authorized installer shall make the certified ignition interlock device functional within 48 hours after a partici-

part's emergency assistance call or shall replace the device.

- B.** A manufacturer shall ensure uninterrupted service to a participant for the duration of the participant's Arizona court order or Division order.
1. If a manufacturer terminates an authorized installer's appointment, the manufacturer shall:
    - a. Obtain participant records from the former authorized installer; and
    - b. Provide the participant records to a new authorized installer for retention according to R17-5-609; or
    - c. If the manufacturer does not appoint a new authorized installer, the manufacturer shall retain the participant records according to R17-5-609.
  2. A manufacturer shall:
    - a. Ensure that an authorized installer has a permanent facility within 100 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer;

- b. Ensure that an authorized installer uses a mobile facility for scheduled accuracy checks at specified locations within 100 miles of the Arizona residence of each participant with an installed certified ignition interlock device provided by the manufacturer; or
- c. Pay to remove a participant's installed certified ignition interlock device and install a certified ignition interlock device, including a model provided by a second manufacturer, that has an authorized installer with:
  - i. A permanent facility within 100 miles of the participant's Arizona residence, or
  - ii. A mobile facility for scheduled accuracy checks at a specified location within 100 miles of the participant's Arizona residence.
- 3. A manufacturer shall notify a participant of the appointment of a new authorized installer or replacement of a certified ignition interlock device at least 30 days before the new authorized installer's appointment becomes effective or replacement of the device occurs.
- 4. Within 10 days after a change in the list of authorized installers submitted to the Division by a manufacturer, the manufacturer shall submit an updated list of authorized installers to the Division.
- d. The number of certified ignition interlock devices removed by the authorized installer since the previous monthly report.
- C. Periodic audits. The Division shall periodically conduct an audit at the premises of an authorized installer or manufacturer, in accordance with A.R.S. § 41-1009. The audit shall determine the following:
  - 1. Whether the authorized installer or manufacturer retains records in accordance with subsection (A),
  - 2. Whether the authorized installer maintains adequate supplies of a warning label conforming to the warning label design adopted by the Division, and
  - 3. Whether the authorized installer maintains adequate supplies of the written instructions provided to participants and other operators of a vehicle equipped with a certified ignition interlock device.

#### Historical Note

New Section recodified from R17-4-709.08 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

#### **R17-5-610. Ignition Interlock Device Installer Bond Requirements**

- A. The amount of the ignition interlock installer bond is \$25,000.
- B. Exhibit A Ignition Interlock Installer Bond and Exhibit B Ignition Interlock Installer Bond, which follow this Section, are the approved bond forms.
- C. Before installing, servicing, or removing a Division-certified ignition interlock device, an installer shall:
  - 1. Be appointed by a manufacturer as an authorized installer of an ignition interlock device model certified by the Division or for which the manufacturer seeks certification;
  - 2. Obtain an ignition interlock installer bond in the approved form from a surety company authorized by the Arizona Department of Insurance to do general surety business in Arizona; and
  - 3. Submit the original completed Exhibit A or Exhibit B to the Arizona Department of Transportation, Motor Vehicle Division, Enforcement Services, 2500 West Broadway Road, Tempe, Arizona 85282.
- D. An installer shall maintain an ignition interlock installer bond in an approved form while installing, servicing, or removing Division-certified ignition interlock devices.
- E. An installer appointed to install, service, or remove more than one certified ignition interlock device model needs only one bond.

#### Historical Note

New Section recodified from R17-4-709.09 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

#### Historical Note

New Section recodified from R17-4-709.07 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

#### **R17-5-609. Records Retention; Submission of Copies and Monthly Reports; Periodic Audits**

- A. Records retention. A manufacturer shall ensure that an authorized installer or the manufacturer retains a participant's records for one year after removal of a certified ignition interlock device. The retained records shall consist of every document relating to use of the ignition interlock device.
- B. Copies of records and monthly reports.
  - 1. A manufacturer shall ensure that an authorized installer or the manufacturer provides copies of participants' records to the Division within 10 days after Division personnel make a request for copies of records, including records of use of the certified ignition interlock device.
  - 2. A manufacturer shall ensure that an authorized installer submits a report to the Division so the Division receives the report by the 10th day of each month. The monthly report shall contain the following information:
    - a. The number of certified ignition interlock devices the authorized installer currently has in service,
    - b. The number of certified ignition interlock devices installed since the previous monthly report,
    - c. The number of pending installations, and



## Department of Transportation – Commercial Programs

**Exhibit A. Ignition Interlock Installer Bond**

Enforcement Services  
Motor Vehicle Division  
2500 W Broadway Rd  
Tempe AZ 85282

## IGNITION INTERLOCK INSTALLER BOND

|  |  |  |  |
|--|--|--|--|
| Principal Name (Ignition Interlock Device Installer) |  | Bond Number  |  |
| Trade Name/Doing Business As                         |  | Business Type <input type="checkbox"/> Individual<br><input type="checkbox"/> Partnership <input type="checkbox"/> Corporation |  |
| Business Location City                               |  | State  |  |
| Surety Name  |  | Surety State   |  |

The Surety named above, a corporation duly organized and existing under and by virtue of the laws of the Surety State named above and duly authorized by the Arizona Department of Insurance under the laws of the State of Arizona to do a general surety business in the State of Arizona, and the Principal named above give this bond to the State of Arizona, as Obligor.

**Recitals** Principal and Surety jointly and severally bind themselves, their successors, assigns, and legal representatives to the Obligor in the sum of \$25,000.

1. The sum stated above establishes the limit of Surety's liability at any time after the effective date of the bond.
2. Principal is a manufacturer-appointed installer of ignition interlock devices certified by the Arizona Department of Transportation, Motor Vehicle Division (MVD).

**Duration** This bond becomes effective on the date of device certification or upon the execution of this document, whichever occurs last. This bond shall remain in effect until terminated by Surety as follows: Surety may terminate liability under this bond if surety gives 60 days written notice to the MVD Director of the intent to terminate liability. Written notice shall be delivered to MVD at the address above. Termination of liability occurs on the last day of the month that includes the end of the 60-day period. If a new bond is filed by the Principal and accepted by the MVD Director, termination of liability under this bond occurs on the effective date of the new bond. The Surety shall remain fully liable for acts or omissions of the Principal before termination of liability.

**Condition of Obligation** Principal shall make monetary payment in compensation to any person ordered by an Arizona court to equip a motor vehicle with a certified ignition interlock device and who suffers loss from:

1. Insolvency or discontinuance of business of Principal, or
2. Noncompliance of Principal or Principal's agent with the administrative rules made under ARS 28-1462.B.

**Venue** Any action or proceeding in connection with this bond or the obligations arising under this bond shall be brought in Maricopa County, Arizona.

**Severability** If a court of competent jurisdiction finds any provision of this bond unenforceable, all other provisions of this bond shall remain in effect.

The Principal and Surety executed this bond on \_\_\_\_\_.

A power of attorney must be attached designating the Surety Attorney-In-Fact.

|                              |   |           |
|------------------------------|---|-----------|
| Surety Attorney-in-Fact Name | Principal or Duly Authorized Officer Name | Signature |
| Phone<br>(      )            | Partner Name                              | Signature |
| Signature                    | Partner Name                              | Signature |

  

|                            |                   |                       |
|----------------------------|-------------------|-----------------------|
| Surety Resident Agent Name | Title             | Send Bond Claims To   |
| Mailing Address            |                   | Mailing Address       |
| City, State, Zip Code      |                   | City, State, Zip Code |
| Signature                  | Phone<br>(      ) | Phone<br>(      )     |

**Historical Note**

New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

## Exhibit B. Ignition Interlock Installer Bond


**Motor  
Vehicle  
Division**

Enforcement Services  
Motor Vehicle Division  
2500 W Broadway Rd  
Tempe AZ 85282

**IGNITION INTERLOCK INSTALLER  
BOND**

Bond Number

|  |                        |  |              |
|--|------------------------|--|--------------|
| Principal Name (Ignition Interlock Device Installer) |                        | Business Type <input type="checkbox"/> Individual<br><input type="checkbox"/> Partnership <input type="checkbox"/> Corporation |              |
| Trade Name/Doing Business As                         | Business Location City |  | State        |
| Surety Name  |                        |  | Surety State |

The Surety named above, a corporation duly organized and existing under and by virtue of the laws of the Surety State named above and duly authorized by the Arizona Department of Insurance under the laws of the State of Arizona to do a general surety business in the State of Arizona, and the Principal named above give this bond to the State of Arizona, as Obligor.

**Recitals** Principal and Surety jointly and severally bind themselves, their successors, assigns, and legal representatives to the Obligor in the sum of \$25,000.

1. The sum stated above establishes the limit of Surety's liability at any time after the effective date of the bond.
2. Principal is a manufacturer-appointed installer of ignition interlock devices certified by the Arizona Department of Transportation, Motor Vehicle Division (MVD).

**Duration** This bond becomes effective on the date of device certification or upon the execution of this document, whichever occurs last. This bond shall remain in effect until terminated by Surety as follows: Surety may terminate liability under this bond if surety gives 60 days written notice to the MVD Director of the intent to terminate liability. Written notice shall be delivered to MVD at the address above. Termination of liability occurs on the last day of the month that includes the end of the 60-day period. If a new bond is filed by the Principal and accepted by the MVD Director, termination of liability under this bond occurs on the effective date of the new bond. The Surety shall remain fully liable for acts or omissions of the Principal before termination of liability.

**Condition of Obligation** Principal shall make monetary payment in compensation to any person ordered by an Arizona court to equip a motor vehicle with a certified ignition interlock device and who suffers loss from:

1. Insolvency or discontinuance of business of Principal, or
2. Noncompliance of Principal or Principal's agent with the administrative rules made under ARS 28-1462.B.

**Venue** Any action or proceeding in connection with this bond or the obligations arising under this bond shall be brought in Maricopa County, Arizona.

**Severability** If a court of competent jurisdiction finds any provision of this bond unenforceable, all other provisions of this bond shall remain in effect.

The Principal and Surety executed this bond on \_\_\_\_\_.

A power of attorney must be attached designating the Surety Attorney-In-Fact.

|                              |  |   |  |           |  |
|------------------------------|--|---|--|-----------|--|
| Surety Attorney-In-Fact Name |  | Principal or Duly Authorized Officer Name |  | Signature |  |
| Phone<br>( )                 |  | Partner Name                              |  | Signature |  |
| Signature                    |  | Partner Name                              |  | Signature |  |

  

|                            |  |              |  |                       |  |
|----------------------------|--|--------------|--|-----------------------|--|
| Surety Resident Agent Name |  | Title        |  | Send Bond Claims To   |  |
| Mailing Address            |  |              |  | Mailing Address       |  |
| City, State, Zip Code      |  |              |  | City, State, Zip Code |  |
| Signature                  |  | Phone<br>( ) |  | Phone<br>( )          |  |

**Historical Note**

New Exhibit recodified from 17 A.A.C. 4, Article 7 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**ARTICLE 7. THIRD-PARTY PROGRAMS****R17-5-701. Definitions**

The following definitions are applicable to Article 8, unless otherwise stated in statute or a specific rule:

1. "Business entity" means an independent commercial establishment engaged in the professional use of commercial motor vehicles.
2. "Contract agent" means a political subdivision, business entity or nonprofit organization engaged in the professional use of commercial motor vehicles who are authorized by the Division to employ third-party testers.
3. "Demonstration test" means a driving examination in a commercial motor vehicle that includes: a pretrip inspection, a basic skills test and a road test as referenced in the Division Examiner's Manual.
4. "Director" means the Division Director, Motor Vehicle Division, Arizona Department of Transportation.
5. "Division" means the Motor Vehicle Division, Arizona Department of Transportation.
6. "Employee" means a person who is currently employed or under contract or working as a volunteer as a commercial motor vehicle driver.
7. "Manual" means the Division's approved examiner's text for the demonstration test which contains instruction for test methods and procedures.
8. "Nonprofit organization" means a group united with a common interest, not seeking profit.
9. "Revocation" means termination of a certification for a maximum period of one year for noncompliance with requirements set forth by the Division.
10. "Third-party tester" means a person who is certified by the Division to conduct demonstration tests to drivers of commercial motor vehicles.

**Historical Note**

New Section recodified from R17-4-801 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-702. Third-party tester/Contract agent****A. Certification requirements.**

1. A third-party tester shall:
  - a. Be employed or under contract for an employer certified as a contract agent.
  - b. Have five years of driving experience, and/or five years training experience, or a five-year combination of both, pertaining to the operation of commercial motor vehicles.
  - c. Possess a current license for the operation of a commercial motor vehicle representative of the vehicle in which the demonstration test is to be given.
  - d. Have no driver's license suspensions, revocations, cancellations, disqualifications or convictions related to driving under the influence within three years prior to the date of application.
  - e. Successfully complete the Division's approved third-party tester training course.
2. The contract agent shall:
  - a. Employ or contract at least one person recommended to be a third-party tester.
  - b. Maintain a regularly occupied structure.
  - c. Provide an office for the third-party tester that shows a clear separation between that office and the normal operation.
  - d. Provide an adequate, safe area to accommodate the related demonstration test.

- e. Own, lease or rent at least one vehicle representative of the type of vehicle or group of vehicles which may be used for testing.
    - i. Vehicles shall be maintained in a safe operating condition.
    - ii. Vehicles shall be in compliance with registration and insurance requirements set forth in Title 28, Arizona Transportation Laws.
  - f. Maintain driver qualification files, for a minimum of three years, for each employed driver.
  - g. Possess a copy of the third-party tester's certificate.
  - h. Retain records of demonstration tests administered to include:
    - i. Name, date of birth, driver's license number and social security number of those tested.
    - ii. The date administered.
    - iii. The class of vehicle used.
    - iv. A copy of the score sheet indicating the results of the demonstration test.
    - v. Name and certification number of the third-party tester who administered the test.
  - i. Maintain financial records for the testing program to include: the terms of pavement for every driver applicant tested, records of receipts and written contracts, if applicable, with any person(s) being tested.
3. Applicants who do not meet requirements as set forth in this administrative rule shall be denied certification.

**B. Application.**

1. The Division shall provide forms, as set forth in this rule in Appendix A (Third-party Tester) and B (Contract agent). The forms shall be submitted to: Motor Vehicle Division, Commercial Driver License Section, 1801 West Jefferson Street, Phoenix, Arizona 85007.
2. The Division may request a certified copy of the third-party tester applicant's motor vehicle, a record that shall be attached to the application.
3. In cases of discrepancies on an application an applicant shall be given 30 working days from the date of application to meet requirements or the application shall be canceled.

**C. Certificates.**

1. The Division shall issue certificates as set forth in this rule in Appendix C (Third-party tester) and D (Contract agent). The certificates shall be numbered and shall be valid for one year.
2. Contract agent and third-party tester certificates shall be prominently displayed in an area readily visible and accessible to test applicants and to agents of the Division.
3. The Division shall issue a duplicate certificate if the original is lost, stolen or mutilated when the certified person submits a written request and an appropriate fee to the Division.
4. A duplicate certificate shall be dated, marked DUPLICATE and maintain the expiration date of the original certificate.
5. The Division shall provide a certificate of competency form as set forth in Appendix E of this rule. The third-party tester shall issue a certificate of competency to an applicant who successfully completes the demonstration test. The certificate of competency shall be valid for 30-calendar-days from the date of the demonstration test.

**D. Third-party tester duties.**

1. Verify that the driver applicant has one of the following:
  - a. A Division instruction permit for a class A, B or C driver's license.

- b. A current chauffeur's license, acceptable only until April 01, 1992.
  - 2. Require an applicant to display a photo identification prior to the demonstration test.
  - 3. Conduct demonstration tests in accordance with instructions provided in the Division manual. If at any point of the demonstration test the third-party tester determines it to be hazardous or unsafe to continue, the test shall be terminated and the score sheet marked accordingly.
  - 4. Complete and sign the demonstration test score sheet.
  - 5. Witness the driver applicant's signature on the demonstration test score sheet.
  - 6. Complete, sign and issue a certificate of competency to an applicant who successfully passes the demonstration test. The Division shall furnish this certificate, as set forth in Appendix E of this rule.
  - 7. Maintain copies of demonstration test score sheet and certificate of driver competency.
  - 8. Submit to random onsite check rides. Division agents shall administer check rides that demonstrate the third-party tester's continued ability to render the demonstration test.
  - 9. Attend ongoing Division training.
  - 10. Give written notice immediately to the Division and the contract agent when their commercial driver's license is suspended, revoked, canceled or disqualified.
  - 11. Give written notice to the Division and the contract agent of changes in the demonstration test route and include a map, drawing or written description of the new route.
- E. Enforcement.**
- 1. Eligibility information shall be subject to inspection(s) prior to a certificate being issued.
  - 2. Within 10 working days a third-party tester or contract agent shall submit written notification to the Division when there is a change in certification requirements.
  - 3. The Division shall investigate complaints submitted concerning any act which would compromise the integrity of the program. The Division may require a written report, from any involved party, be submitted within 10 working days from receipt of a request.
  - 4. The contract agent or third-party tester shall not use advertisements which imply:
    - a. A certificate of competency guarantees the issuance of a commercial driver's license.
    - b. The third-party tester program will influence the Division in any manner in the issuance of a commercial driver's license.
    - c. Preferential or advantageous treatment from the Division.
- F. Penalty.** An immediate revocation notice shall result for:
- 1. False and/or fraudulent records.
  - 2. Second or subsequent violations for not maintaining requirements and responsibilities as set forth in this rule.
  - 3. Misuse of advertisements as referenced in Section E-4 of this rule.
  - 4. Failure to allow or cooperate in an audit.

**Historical Note**

New Section recodified from R17-4-805 at 7 A.A.R.  
3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-703. Fees**

Fees are payable at the time of application and shall not be prorated or refunded. Checks and money orders shall be made payable to: Motor Vehicle Division, Arizona Department of Transportation.

- 1. Employer certification.
  - a. Certificate, 12-month period, \$50.00.

- b. Duplicate certificate, \$25.00.
- 2. Contract agent.
  - a. Certificate, \$50.00 annually.
  - b. Duplicate certificate, \$25.00.
- 3. Third-party tester.
  - a. Certificate, \$25.00 annually.
  - b. Duplicate certificate, \$25.00.

**Historical Note**

New Section recodified from R17-4-806 at 7 A.A.R.  
3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-704. Audit**

- A.** To assure continued compliance with certification requirements the Division may make random, onsite inspections, during normal business hours, to audit the operation, facility and/or records.
- 1. Persons who are certified shall submit copies of related documents to the Division upon request.
  - 2. After a Division audit a warning letter, to allow 30 calendar days for compliance, shall be issued for failure to:
    - a. Maintain requirements or records as referenced in administrative rules 17 A.A.C. 5, Article 7.
    - b. Notify the Division of requirement or program changes.
- B.** Failure to comply with the provisions set forth in a warning letter or failure to allow or cooperate in an audit shall result in a notice of revocation of certification.

**Historical Note**

New Section recodified from R17-4-807 at 7 A.A.R.  
3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-705. Panel review**

- A.** When the Division determines a certification is to be denied or revoked, written notice shall be served either in person or by mail. Revocations shall be effective 20 calendar days from the date of notice.
- B.** One person may request a Division review when certification is denied or revoked. A timely written request shall stay a revocation until a panel conducts a review and determination has been made. Written requests shall be submitted to the Director at the following address: Motor Vehicle Division, Commercial Driver's License Section, 1801 West Jefferson Street, Phoenix, Arizona, 85007.
- C.** The Director shall appoint a review panel consisting of three persons to determine if revocations or denials shall be upheld.
- 1. The affected parties may request to appear at the review, have counsel appear in their behalf or to have a summary review which does not require an appearance.
  - 2. The Division shall send written notice, to the person, of the time, date and place of the review and of the final decision after the review.

**Historical Note**

New Section recodified from R17-4-808 at 7 A.A.R.  
3483, effective July 20, 2001 (Supp. 01-3).

**R17-5-706. Third-party Driver License Processor and Tester**

- A. Definitions.**
- 1. "Third-party Processor" means a business entity which is authorized by the Director to employ third-party testers.
  - 2. "Director" means the Assistant Director of the Arizona Department of Transportation, Motor Vehicle Division, or the Director's designee.
  - 3. "Division" means the Motor Vehicle Division of the Arizona Department of Transportation.

4. "Principal or established place of business" means a permanent site or location at which the business of a driver license processor is or will be conducted.
  5. "Third-party tester" means a person who is certified by the Director to administer driver examinations for Class D or M driver licenses.
- B. Third-party Processor Requirements.**
1. Before authorization.
    - a. The third-party processor applicant shall be in compliance with all applicable business laws of Arizona.
    - b. The Director shall authorize a business entity as a third-party processor only if no partner, officer, director, agent, or shareholder who owns 20% or more of the business entity, and no person who will be involved in the licensing process for the third-party processor applicant:
      - i. Had an authorization to do business revoked or suspended by the Director during the previous three years;
      - ii. Has an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for fraud or a licensing-related felony during the previous 10 years;
      - iii. Has an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for any felony other than that described in subsection (B)(1)(b)(ii) during the previous five years; or
      - iv. Had a license or operating authorization concerning the testing for or issuance of driver licenses revoked or suspended in Arizona or any other state during the previous two years.
    - c. The third-party processor applicant shall designate an agent within Arizona to accept service of process.
    - d. The third-party processor applicant shall demonstrate acceptable financial responsibility to protect any liability that may arise from the issuance of a permit. Acceptable financial responsibility shall be demonstrated as follows:
      - i. General liability insurance in the amount of at \$5,000,000 of which at least \$1,000,000 is primary coverage. If the policy deductible provision exceeds \$100,000, then a principal of the third-party processor shall provide the Director with a sworn affidavit stating that the Department of Transportation and the state of Arizona are included in the third-party processor's self-insured program to the same extent as an additional insured endorsement on the policy would provide.
      - ii. The Arizona Department of Transportation and the state of Arizona shall be named as additional insureds on the insurance policy.
      - iii. The primary coverage shall be issued by an insurance company licensed to do business in Arizona by the Arizona Department of Insurance.
      - iv. The policy shall provide that the Director shall be notified at least 30 days prior to any policy cancellation, nonrenewal, or change in provisions. Additionally, the policy shall provide that the Director shall be notified if the insurance company becomes insolvent.
      - v. The policy, together with all endorsements and exclusions, shall be provided to the Director at time of initial application.
  2. After authorization.
    - a. The third-party processor shall employ at least one person as a third-party tester.
    - b. The third-party processor shall maintain a principal or established place of business within this state with adequate and safe facilities to accommodate the related written and demonstration tests.
    - c. The third-party processor shall maintain all vehicles used in demonstrations and testing in a safe operating condition and comply with all registration and insurance requirements for vehicles as set forth in A.R.S. Title 28.
    - d. The third-party processor shall possess a copy of each third-party tester's certificate.
    - e. The third-party processor shall file and maintain a current mailing address with the Director.
    - f. The third-party processor shall continue to be in compliance with the pre-authorization requirements set forth in subsection (B)(1) of this Section.
- C. Third-party tester certification requirements.**
1. A third-party tester shall be at least 18 years of age and employed by a third-party processor.
  2. A third-party tester shall successfully complete the Division's third-party tester training program and remain current with any continuing education requirements of the Division.
  3. A third-party tester shall not have:
    - a. Had an authorization to do business revoked or suspended by the Director during the previous three years;
    - b. Had an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for fraud or a licensing-related felony during the previous 10 years;
    - c. Had an uncompleted term of imprisonment, probation, or parole, or fine payment resulting from conviction for any felony other than that described in subsection (C)(3)(b) during the previous five years; or
    - d. Had a license or operating authorization concerning the testing for or issuance of driver licenses revoked or suspended in Arizona or any other state during the previous two years.
  4. A third-party tester shall at all times be subject to a criminal investigation which may be conducted at random at time of application and with good cause thereafter with the costs borne by the third-party processor.
  5. A third-party tester shall comply with all applicable statutes, rules, and contract provisions governing the testing of applicants for driver licenses.
    - vi. No authorization shall be issued until the insurance policy is approved by the Director.
    - vii. Nothing in this requirement places any limitations on any indemnification provisions in the contract between the third-party processor and the Director.

6. A third-party tester shall have five years of driving experience, plus a total of five years' experience in driver license issuance, driver education instruction, professional driving instruction, or a combination thereof.
  7. A third-party tester shall possess a current license for the operation of the type vehicle in which the written or demonstration tests are to be given.
  8. A third-party tester shall not have had any driver license suspension, revocation, cancellation, disqualification, denial, or other license withdrawal nor any conviction related to driving while under the influence of intoxicating liquors or drugs, reckless driving, racing upon a highway, or leaving the scene of an accident within the five-year period prior to application.
- D. Application.** The Division shall provide the application for third-party tester certification and third-party processor authorization. The completed application shall be submitted to: Arizona Motor Vehicle Division, 1801 W. Jefferson Street, Phoenix, Arizona 85007.
- E. Duties and Responsibilities of Third-party Processor.**
1. A third-party processor shall retain records of all written and demonstration tests administered for a period of three years to include:
    - a. Accounting records documenting receipt of fees;
    - b. Copies of all applications and score sheets setting forth the name, driver's license number, social security number, and date of birth of those tested, the date of test and class of license tested, and the name and certification number of the third-party tester.
  2. A third-party processor shall not administer any examination unless the applicant meets the requirements of all applicable rules and statutes governing licensing.
  3. A third-party processor shall ensure that all testing is done in accordance with the Division training manual and that all recording and reporting are done on forms approved by the Director.
  4. A third-party processor shall submit to random onsite inspections by the Director.
  5. A third-party processor shall make records available for and cooperate in any audit by the Director.
  6. A third-party processor shall comply with all applicable rules, statutes, and contract provisions.
  7. A third-party processor shall collect licensing fees and forward same to the Director by the close of the next business day.
  8. If a third-party processor adds or changes a partner, officer, director, agent, shareholder owning 20% or more of the corporation, or adds or changes any other employee or person who may be involved in the licensing process or business and who was not included in the application, the third-party processor shall give written notification to the Director within 30 days of any change or addition. The new partner, officer, director, agent, shareholder owning 20% or more of the corporation, or employee or person who is involved in the licensing process or business is subject to this rule and the provisions of the contract between the third-party processor and the Director, and is also subject to a criminal background investigation with the cost borne by the third-party processor.
  9. A third-party processor shall give written notice immediately to the Director of any tester whose driver license is suspended, revoked, canceled, disqualified, denied, or otherwise withdrawn.
  10. A third-party processor shall not conduct any examinations on a test route nor change an approved test route without obtaining approval of the route from the Director.
  11. A third-party processor shall submit within 10 days any report required by the Director as part of a complaint investigation.
  12. A third-party processor shall not employ advertising which implies the guaranty of a license, the use of influence with the Division, or any preferential treatment by the Division.
- F. Audit.**
1. To assure continued compliance with authorization and certification requirements, the Division may conduct random, onsite inspections during normal business hours to audit the business records of the third-party processor.
  2. Records shall be made available for audit at the third-party processor's place of business. If the records are maintained at a location outside the state of Arizona, the third-party processor shall either make the records available at a location within Arizona designated by the Director or make the records available at the third-party processor's place of business outside the state of Arizona. Audits conducted at a location out of state shall be at the third-party processor's expense. Audit expenses, including per diem and travel expenses, are to be prepaid according to Arizona Department of Transportation Administrative Procedures, Chapter 6.02 Travel Authorization Procedure dated January 28, 1991, which is incorporated into and made a part of this rule by reference and on file at the Office of the Secretary of State and also on file at the Arizona Department of Transportation Motor Vehicle Division Executive Hearing Office. This rule does not include any later amendments or additions of the incorporated matter.
  3. Failure to allow or cooperate in an audit shall result in revocation of the third-party processor authorization.
- G. Background investigation.**
1. The Director shall conduct random criminal background investigations of any partner, officer, director, agent, or shareholder who owns 20% or more of a business entity that has applied for authorization as a third-party processor and of any third-party tester or other person who will be involved in the licensing process for the business entity.
  2. The Director shall, with good cause, conduct criminal background investigations after a business entity has been authorized as a third-party processor.
  3. The cost of a criminal background investigation shall be paid by the business entity that has applied for or received authorization as a third-party processor.
- H. Denial and Revocation; Appeal.**
1. The application for third-party tester certification or third-party processor authorization shall be denied if the applicant fails to meet the requirements set forth in this rule.
  2. If the application contains a material omission or a false statement, the application shall be denied and the applicant shall not be allowed to reapply for a period of 12 months.
  3. The third-party tester certification or third-party processor authorization shall be revoked upon a determination by the Director that the third-party tester or third-party processor is no longer qualified for certification or authorization under this rule or is in breach of the contract with the Division.

4. The third-party tester certification or third-party processor authorization shall be revoked upon a determination by the Director that the third-party tester or third-party processor violated the provisions of this rule or other applicable rule or statute.
5. The order of revocation shall be preceded by a notice of immediate suspension and intent to revoke. The notice shall be sent by first-class mail, postage prepaid, to the address of the third-party processor on file with the Director.
6. The notice shall inform the third-party processor that the processor or third-party tester is no longer authorized to administer examinations and of the right to a hearing and the procedure for requesting a hearing.
7. The order of revocation shall become effective 25 days after the mailing date of the notice unless a timely request for hearing is submitted.
8. The third-party tester or third-party processor shall not be allowed to reapply for authorization or certification following revocation if the revocation was based on a fraudulent act or a knowing and intentional violation or attempt to violate the provisions of the contract, this rule, or any other related rule or statute.
9. If the application for third-party tester certification or third-party processor authorization is denied, the denial shall be sent by first-class mail, postage prepaid, to the address shown on the application. The notice of denial shall inform the applicant of the right to a hearing and the procedure for requesting a hearing.
10. Hearings, rehearings, and appeals shall be noticed and conducted in accordance with A.R.S. § 41-1061 et seq. and 17 A.A.C. 1, Article 5.

**Historical Note**

New Section recodified from R17-4-501 at 7 A.A.R. 3483, effective July 20, 2001 (Supp. 01-3).